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Moral p. 1
CHARGES,

AND

EXTRACTS OF CHARGES,

ON

MORAL AND RELIGIOUS SUBJECTS ;

DELIVERED AT SUNDRY TIMES,

BY THE HONORABLE

JACOB RUSH,

*President of the Third District of the Court of Common Pleas
and Quarter Sessions for the State of Pennsylvania.*

**With a Recommendation by the Reverend Clergy of the
Presbyterian Church, in the City of Philadelphia.**

TO WHICH IS ANNEXED,

**THE ACT OF THE LEGISLATURE OF THE STATE OF
PENNSYLVANIA, RESPECTING
VICE AND IMMORALITY.**

PHILADELPHIA—PRINTED :

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LENOX AND
TILDEN FOUNDATIONS.

1897.

RECOMMENDATION.

THE following Charges and Addresses of Judge RUSH, have not been published at his expence, nor by his request. A number of gentlemen who had read some of them in the newspapers, were much impressed, both with the importance of the matter therein, and the forcible and perspicuous manner in which it is communicated, as to engage them to take measures for the publication of the whole, in a form that should be more durable and more generally useful. With this view they solicited the Judge to furnish them with a complete and correct copy. He kindly complied with the solicitation—and this is all the agency or concern that he has had in the business.

The printer, who has published this pamphlet at his own risk, agreed to do it, on condition that the Subscribers would previously peruse it, and engage to give their recommendation of it to the public. They hope to escape the charge of vanity or arrogance, in having fulfilled the condition prescribed—They have read the pamphlet with attention, and do now cheerfully and cordially recommend it, as a most valuable and seasonable publication. They think that it explains and enforces a number of moral and religious duties, in a manner that will appear to many, at once, new, just, and striking. They think it particularly and highly estimable, as it demonstrates the connexion between the principles of religion and those of social happiness to be necessary and indissoluble; and explains the extent to which our municipal laws enforce a regard to the laws of God. They are persuaded that it is well calculated to render every person, who seriously and candidly reads it, both a better Christian and a better Citizen; and therefore they sincerely wish that it may have an extensive circulation.

ASHBEL GREEN,
PHILIP MILLEDOLLER,
JACOB J. JANEWAY,
GEORGE C. POTTS,
JOHN BLAIR LINN.

Philadelphia, Jan. 4, 1803.

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CHARGES

ON

RELIGIOUS AND MORAL SUBJECTS.

UPON HUMAN AND DIVINE LAWS, AND
THEIR CONSEQUENCES.

[DELIVERED AT READING, APRIL 4, 1796.]

Gentlemen of the Grand Jury,

THERE is no position more evidently true, than that man is a free agent. If we consult what passes in our *own* bosoms, we shall plainly discover, that every step we take in life, is the *effect* of preference or choice ; and is the result, either of a momentary, or deliberate view of the object pursued.

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in vain," this is the precept or command ; and then follows the penalty ; " for the Lord thy God will not hold him guiltless," that is, he will certainly punish " him that taketh his name in vain."

Laws, whether human or divine, are either natural or positive. By the natural or moral law is understood, that law which is founded upon the *eternal reason and fitness of things*, and enjoins those duties, which, as dependent creatures, we owe to our Creator, and to each other, and which necessarily result from *those* relations. Of this kind are gratitude to God, and justice to our fellow-creatures ; because these are duties which are unchangeably binding in every situation. Murder also, and blasphemy, being in themselves universally evil, in every age and nation, are acknowledged to be crimes forbidden by the moral or natural law. It is impossible that mankind can be *ever* free from *obligations* of love and gratitude to God, and of justice to each other ; or that they can be placed in circumstances, which will give a right to murder or blaspheme. Such laws are therefore said to be perpetually binding.

By a positive law, is understood a law, which does not necessarily flow from the nature of things, but is founded solely on the *will* of the law-giver, and adapted to some particular *time* or *occasion*. Of this nature is the *divine* law, which forbids all kind of unnecessary labour on the Sabbath-day ; and the *human* law, which forbids the obstructing our high-ways, or navigable waters.

Having thus explained to you, Gentlemen, the nature of a law, and the different kinds, I proceed to observe, that the *great end* of all laws, both human and divine, is the same, viz. the happiness of those who are the subjects of them. In this respect all laws are alike. But notwithstanding this, there are many striking differences between human and divine laws, as we shall see, by comparing them, and pointing out the circumstances that mark the discrimination.

Our laws inflict the same punishment upon *all* offenders, guilty of the *same* crime ; a mode of proceeding, which however equitable it may appear on *first* view, cannot be a just measure of retribution. Some persons

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fall into crimes, through ignorance, bad education, or sudden and powerful temptation ; while others, instead of resisting temptation, resist *conscience*, and perpetrate their crimes, with every circumstance of coolness and deliberation. The agonies of the mind, occasioned by the mere formalities of a *public trial*, may be a greater punishment to *one man*, than corporal pain, openly inflicted, may be to *another*. There is doubtless an inconceivable difference between the sufferings of a wretch, sensible of his crime, who would give the world if he had it, to be relieved from his situation, and the sufferings of an abandoned ruffian, callous to every impression of danger, fear, or remorse. Imagination cannot paint the difference between the dreadful sensations of the *one*, and the unfeeling temper and brutality of the *other*. And yet at *human tribunals*, charged with an offence of the same kind, they both receive the same sentence, and expiate their *different* degrees of guilt, by undergoing precisely the *same* punishment.

Not so the violators of the divine laws. Tried by these laws, “ every nice offence

will bear its proper comment." The struggles of virtue, overpowered by temptation, will be accurately distinguished from deliberate wickedness. The various degrees of guilt, from the *moment* of first cherishing the criminal thought, through all its stages, to the actual completion of the crime, will be ascertained with infinite wisdom. The scales of justice at *this* tribunal are poised by an unerring hand, and every transaction weighed in the most exact balance. Here are distinctly seen, as by meridian splendors, the various grades of vice, from the slightest *tint* of moral evil, through all its deepening shades, to the darkest hue of *black* premeditated guilt.

Our laws operate only on the *external* conduct, and do not reach the heart. As long as men give no proof of disaffection to human government, by some *overt* act, they have a right to be treated as good citizens and subjects, though in their *hearts*, they may be utterly opposed to it. The loyal and disloyal, the well affected and the disaffected, under human governments, equally enjoy the *protection* of the laws, and sometimes share in the *power* and honors of a government, to

which they bear the most inveterate enmity.

But the *divine* laws extend to the heart ; and as they are intended to make man *perfectly* virtuous, and not so by the halves, they require the subjection of every emotion of the mind. They are designed to reform the *temper*, as well as to regulate our actions. Human laws are satisfied, if our conduct be decent. But the divine laws require us to correct, and subdue the passions, that we may improve the heart. A person may be a very good subject of human laws, who is constantly transgressing the divine laws. Upon the scheme of the divine government, guilt is contracted, merely by *revolving in the mind* the violation of its laws. The coward brooding over revenge—an assassin contemplating his midnight murder—the robber projecting schemes of rapine and violence—and the adulterer planning the most successful stratagems to corrupt virgin innocence, may be equally, and in *certain* circumstances, even more guilty, in the eye of the divine laws, than *others* who actually perpetrate the crimes. Even human laws go so far, in many cases, as to punish the *intention* to injure or defraud ; as

you may daily observe in our courts of justice. We cannot then, Gentlemen, wonder that the divine laws should go a little further, and forbid our cherishing so much as a single *thought* that has a *tendency* to an immoral action. Certain it is, and we are informed by an authority which we are not permitted to controvert, that out of the *heart* proceed all manner of crimes. And it is for this reason, when the divine laws forbid any *action*, they are always understood to forbid *harbouring* in the mind, all those *thoughts* that may lead to the commission of it ; for actions are in fact, nothing but our thoughts ripened into substance. In the sight of God, *thought* (or *will*) and *action* are the same. On all hands it must be acknowledged, that there cannot be a sounder interpretation of a law, which prohibits a *particular act*, than to construe it, as prohibiting also the *means*, or *causes* of it. Hence the Civilians tell us, it is the property of a good law, *non solum tollere vitia, sed etiam occasiones vitiorum* ; that is, not only to prohibit crimes, but to prohibit also the causes of them.

Again—Our laws are often eluded. It

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sometimes happens, that they who transgress them are not discovered in *this* world. Or when detected, they are perhaps acquitted through ignorance, or perverseness. And even in case of conviction, they often escape punishment, through the false lenity, weakness, or partiality of rulers. What is still more deplorable, from the blindness or wickedness of human nature, the innocent are sometimes condemned in earthly tribunals, to experience that punishment, which the guilty alone ought to suffer.

It is scarcely necessary to add, by way of contrast here, that the administration of the divine laws, being conducted by the omniscient Father of our spirits, must infallibly terminate in universal and complete justice, to *all* his creatures.

But if human and divine laws are in *some* respects different, it is not less certain, they agree in *others*. A very important particular in which they coincide, is the absolute *necessity* of their execution.

All laws, as we observed before, must have penalties ; otherwise they would be only *advice*, and not be obligatory commands of au-

thority. They might be obeyed or not at pleasure, and would therefore be nugatory. Nay, they would be absurd in their very nature; for if what is enjoined by the law be necessary for the public good, it should be complied with; and it is highly proper that they who deserve it, should be made to feel the *bad* effects of transgressing them.

As laws without penalties, would be mere nullities, so they would be ridiculous scarecrows, if they were never executed. They could not excite the least fear, nor, of consequence, deter from disobedience, unless the execution was expected. Nobody would believe the rulers were in earnest, nor of course expect the execution of the laws, if the subjects saw them constantly dispensed with, and the offenders escape with impunity.

The design of a penalty, is to secure obedience to the precept, or command. We cannot suppose, that legislators annex penalties to their laws, to enjoy the savage pleasure of beholding the sufferings of the criminal. The execution of the penalty is essentially necessary to secure the government from contempt, to correct and restrain the offen-

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der, and thereby strike terror into others.

There cannot be a greater misapprehension, than that *justice*, in a good ruler, flows from a harsh or cruel disposition. The reverse is strictly true—It springs from an enlarged and benevolent regard to the *whole society* or nation, especially the virtuous, who can be protected in no *other* way, from the outrages of the wicked, than by the execution of the penalty. A judge without justice, and a ruler who does not enforce the execution of his laws, can be agreeable to none but criminals. Hence we observe, the *virtuous* part of mankind always approve the conduct of their rulers, in punishing malefactors. The happiness of the *whole society* is the great object a *wise ruler* steadily pursues in his administration ; and this he well knows can be attained by no other means, than by maintaining the honor of the government, punishing the disobedient, and thereby deterring all others from transgressing the laws.

Although it be an undoubted truth, that God is the Father and Creator of all his intelligent creatures, yet it is no less true, that he is our Sovereign and Law-giver ; and that in

this capacity he has prescribed certain laws for our direction and conduct. As justice is an essential attribute of the Deity, it is totally inconceivable, how it can consist with his character as a perfect and upright Moral Governor to connive at the violation of his laws ; and to pass over offences with impunity. If the pardon of *all* crimes, would produce universal disorder in the governments on our globe, who can tell what would be the consequences in the infinitely extended dominions of the great Ruler of the universe, in case he should permit offenders to go unpunished ? It is highly probable, from Revelation, that there are millions of intelligent beings, who constantly pry into the administration of the divine laws over the human race. Nor does it appear inconsistent with reason to suppose, that they may, among other motives of a *nobler* kind, be in *some* degree retained in obedience to their Creator, by observing the execution of his laws upon those of *our* race, who may be the miserable victims of his justice.

If kings and rulers of this world, may be

influenced by a love of virtue and order in restraining the guilty, and thereby infusing terror into others, so as to prevent their falling into misery ; it would surely be the most horrid blasphemy to insinuate, that God, the source and fountain of perfection, is guided by less benevolent motives in the execution of *his* law. Indeed, Gentlemen, the very idea of a government, in which there is no discrimination between the virtuous and the wicked, between those who obey the laws, and those who obey them not, is pregnant with such absurdity, that the common sense and practice of mankind have universally reprobated it. A sovereign that should make no distinction between the good and the bad, would soon bring his government into contempt, and make it a theatre of disorder and violence. Justice is an essential quality in a first magistrate. Mingled with clemency, and exercised with wisdom, it consummates the character of a great and good ruler. If mercy were extended to *all* criminals, justice would be an empty shadow. The dignity of the law would be prostrated, and the government become a scene of outrage and horror.

There is then an absolute necessity for the execution of the laws, both human and divine ; an universal remission of offences under *any* government, being *impracticable*, in the very nature of things.

But still it may be said, if laws cannot be so far dispensed with, as that *every body* may go unpunished, yet surely they, *at least*, may expect to be pardoned, who express a sincere sorrow for their offences.

Upon this ground the Deist, and the friends of Christianity are at issue. The Deist acknowledges the existence of a Supreme Being, the doctrine of future rewards and punishments, and the force of moral obligations. That is, he owns there are such things as good and bad actions, and that it is wrong to swear, lie, cheat, rob, murder, &c. but says, where a man has done all, or any of these crimes, provided he is but *sincerely* sorry, it is sufficient. Let us spend a few moments in contemplating this question.

Whether contrition, Gentlemen, for a crime be extorted by the fear of punishment, or be excited by the feelings of an *ingenuous* temper, *can be known only* to the Searcher of all

hearts. In human governments appearances may deceive, while the heart is not the least touched. It therefore would be the height of absurdity, that sorrow should make atonement for offences, when we know not whether *that* sorrow be genuine or not.

But if contrition, allowing it to be *sincere*, for breaking the laws of *any* government be sufficient to avert the stroke of justice, it would be proper, in *such case*, for the ruler to apprise his subjects of it, by an open declaration, “that whoever shall be guilty of any offence, he shall be pardoned if he does *but sincerely* repent.”—Now, who does not see that this would be giving licence to men to break the laws as often as they pleased, and that *such conduct* would overthrow every government human and divine ?

The only effect *sorrow* for a crime can ever produce, is reformation and a return to obedience. But this, in the very nature of things, can never be an atonement for *past offences* ; it may indeed prevent the commission of *more* crimes, but cannot be any satisfaction for those *already* perpetrated. A person who has plunged himself into debt, may be, and

often is extremely sorry for it ; and possibly may avoid extravagance for the *future*. But surely, Gentlemen, this sorrow, and *subsequent* economy, will never pay off his *old* debts, or satisfy the demands of his creditors.

The utmost contrition that can be experienced is no compensation even for a private injury, much less for a public offence. In the case of a man robbed or murdered, whose wretched orphans are thrown upon the mercy of the world, will it be said, that the keenest pangs of sorrow the criminal can feel, will afford any satisfaction to the helpless children ? Certainly not. The punishment of vice is a debt eternally due to public justice, which can be cancelled only by the *sufferings* of the offender, or an *equivalent* accepted by a sovereign whose laws are broken.*

In human governments the power of dispensing with the laws *in particular cases*, is universally acknowledged to arise from the

* See Dr. Price's Sermons, pag. 252, that there is in vice an *intrinsic* demerit, which, *independently* of consequences, makes punishment *proper*.

weakness and imperfection of all human systems. It is properly remarked by Marquis Beccaria on crimes and punishments, that *a perfect legislation* excludes the idea of pardoning or suspending the stroke of justice : and as the divine laws must necessarily be perfect (being the result of infinite wisdom) it clearly follows, there can be no such thing as a *complete* and *total* remission of the penalty, where they are broken. Either the offender himself must suffer the penalty, or some other person as a *substitute* ; and there can be no reason why a sovereign may not accept the *vicarious* sufferings of a substitute, provided the infliction of the punishment upon *him* will answer the great end of public justice, support the rights of government, and deter others from disobedience to the law.

Both human and divine laws constantly require *suffering* as the only atonement for transgressing them. The ideas of *guilt* and *suffering* are indissolubly associated in the human heart. The practice of all nations corroborates the reasoning now advanced ; for in all ages and countries, mankind have had recourse to sacrifices in order to appease the

Deity by the vicarious sufferings and blood of victims—an unequivocal proof that the voice of nature has uniformly demanded *sufferings* as the proper atonement of guilt, and that sorrow *alone* is not a sufficient expiation.

From these observations we apprehend, that so far is the light of nature from teaching, that remission of punishment is the necessary consequence of repentance, that it teaches the contrary. This pillar of Deism must therefore fall to the ground. Infidelity can only be supported in two ways—one is, by asserting that there is no such thing as moral obligation ; which no Deist is hardy enough to do—the other is, by proving that sorrow for the violation of a law, is a *sufficient* atonement, and that this is discoverable by the light of nature ; which we hesitate not to say is utterly impossible, because repugnant to truth, reason, and the plain dictates of common sense.

Revelation therefore is necessary to shew on what terms the Deity will pardon the violation of his laws.

But it has been said, the Christian religion *cannot be this revelation*, because, in some

things it is unintelligible and incomprehensible.

It is so, Gentlemen : and were it not so, it would be unlike all the other works of the Deity, and for that *reason only*, ought to be rejected as a mere human fabrication. Tell me, thou vain pretender to reason and philosophy ! how yonder sun has continued for thousands of years to pour forth such stupendous floods of light without any perceptible diminution ? or how its rays, darting with a velocity exceeding the motion of a cannon ball, can meet the eye without the smallest pain or injury ?—Tell me, why the purple stream that flows in thy veins, not only descends, but ascends, contrary to all the laws of motion ?—Tell me why the magnetic needle points to the poles ? and develope if thou canst, the causes of its variation ?—Tell me by what *fine-spun cords* thy invisible spirit is united to matter, and how thy beating heart *began* its vital motion ?—Tell me

.....Why the *good man's* share

In life is *gall* and *bitterness* of soul ?—

Why the lone *widow* and her *orphans*, pine

In starving solicitude ?.....

.....Why heav'n-born truth
And moderation fair, wear the red marks
Of superstition's scourge ?..... THOMSON.

Explain to me these, and ten thousand other mysteries that exist in the books of nature and providence, and then will I also explain to you the mysteries in the volume of Revelation. How preposterous and irrational, while the voice of nature proclaims aloud that the Deity is incomprehensible, and we daily see that in all his works and ways he is equally so, to expect that a revelation *concerning God himself*, the Creator of all things, should *not* contain mysterious truths, infinitely above human reason !

I am sensible, Gentlemen, that reflections of this sort are unusual in an address to a Grand Jury. But I am equally sensible it is the duty of *every man*, according to his abilities and station, to stem the torrent of infidelity which threatens to deluge our country. *Christianity*, we are told by our law-books, is *part* of the *law* of the *land* ; and as such, a judge may at *any time*, without stepping aside from the path of duty, illustrate its precepts and enforce its evidences. It must then

be particularly incumbent on him at *this time*, when Deism is daily venting itself in ambiguous hints or sneers, or openly attacking religion with shallow argument. To the native growth of infidelity among us, it is more than possible, augmentations may have been made, in consequence of our admiration of a certain great nation in Europe ; more especially as a member of the late convention in that country (generally supposed to have been actuated by an uncommon zeal for "the rights of man,") availing himself of his literary reputation, has, by an attempt to overthrow all religion, indirectly endeavoured to justify their blasphemous measures to extirpate it. It is really astonishing, Gentlemen, that a man who calls himself a patriot, should strive to undermine religion, the *only foundation* of government and morality. The penetrating genius of Montesquieu, taught him to entertain sentiments very different from those of the "Age of Reason." Having compared the effects on society, produced by different religions, and examined them *merely* in a political light, what is the decision ? "The principles of Christianity," says he, "deeply en-

graved on the heart, would be infinitely more powerful than the false honor of monarchies, the human virtues of republics, or the servile fear of despotic states." The vast comprehensive mind of the great Bacon, saw the subject in the same point of view. "There never was found," says this profound philosopher, "in any age of the world, either philosophy or sect, or religion, or law, or discipline, which did so highly exalt the public good, as the *Christian faith*."

I have already, Gentlemen, consumed more time than I intended, and shall therefore instantly close with a single observation.

If the great duties of truth and justice, and the purest precepts of morality; if the most exalted benevolence and unbounded humanity; if sincerity, candour, meekness, magnanimity, gentleness, and forgiveness of injuries, have a native tendency to improve the heart, and diffuse peace, order, and happiness among mankind, and are *strictly enjoined* by the Christian religion, as *indispensible conditions* of obtaining the favour of the Deity; what must we think of the writer who has exerted his talents to *lessen* our motives,

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enfeeble our obligations to the practice of these beneficent and godlike virtues?

Save us, gracious Heaven, from such patriots, and the extension of their baneful principles among us!

THE NATURE OF AN OATH STATED AND
EXPLAINED.

[DELIVERED AT EASTON, AUGUST 8, 1796.]

Gentlemen of the Grand Jury,

AS we are constantly employed in the administration of oaths, and every person is liable to be called upon to swear before some competent authority, it cannot be deemed improper, in this place, to address a few observations to you, upon the nature and importance of an *oath*. This is the more requisite, from the danger, that every idea, with respect to the solemnity of an oath, is likely to be obliterated from the mind by the *indecent* manner in which they are daily uttered in familiar conversation, and the almost equally indecent manner in which they are frequently *administered* in the ordinary course of justice.

An oath, Gentlemen, is a very serious transaction, and may be defined, "A solemn appeal to God for the truth of the facts asserted by the witness, with an imprecation of the divine justice upon him, if the facts which he relates are false, or, in the case of a promissory oath, if the party doth not fulfil his engagement."

We perceive from this definition, that oaths are of two kinds, assertory and promissory. The former includes the testimony given by witnesses, and in general all matters of fact are asserted or related upon oath. Promissory oaths are those taken by officers of government, all oaths of allegiance and protection, and likewise the oaths you have severally taken as Grand Jury-men.

The use of oaths, as a means of ascertaining the truth, it is impossible to trace to their origin. They have prevailed in different ages and countries, as far back as historical information can carry us, and are in fact as old as the creation. Abraham and Abimelech ratified their covenant by the solemnity of mutual oaths, as did also Jacob and Laban: in which cases we observe, that Abra-

ham and Jacob received the oaths of Abimileck and Laban, though they swore by *false* gods, which are acknowledged by modern writers to be binding, provided the party believes in the existence of *one* God, the creator of all things. Swearing by inferior deities in such cases is considered as a mode of appealing through them to the Supreme Being; agreeably to the declaration of our Saviour, "He that sweareth by the throne of God, sweareth by him who sitteth thereon; and he that sweareth by the temple, sweareth by him who inhabits the same." Through the inferior objects, the appeal is made, and terminated in a solemn invocation of the God of all gods.

If we suppose the institution of an oath to be of divine origin, yet there is no doubt, that human authority is competent to establish those forms of swearing that are most calculated to strike with religious awe and veneration. Accordingly the forms of swearing vary in different countries. But in one point all ages and countries have uniformly concurred—namely, that oaths are to be ministered to all persons according to

opinion, and in such form as most affects *their* consciences.

In the Old Testament we find Abraham calling upon his servant to swear, and requiring him to place his right hand under Abraham's thigh, while he repeated the words of the oath to him : and Jacob used the same ceremony when he made his son Joseph swear he would not bury him in Egypt.

The professors of the Gentoo religion in India, when they take an oath, fall prostrate before the Bramin or priest, and lay the right hand upon the Bramin's foot ; and an oath of this kind has been admitted to be *legal* evidence in England, because the Gentoos profess a belief in *one* God, the creator and governor of all things.

A Mahometan swears upon the Alcoran, and places his right hand *flat* upon it, and his left hand upon his forehead. In this posture he looks steadily a few minutes at the Alcoran ; and by this ceremony, he conceives himself bound to speak the truth.

A Jew is sworn upon the five books of Moses, upon which he lays his right hand.

The general form in use among Christians,

is to lay the right hand upon the Bible, or the New Testament only, and to kiss it. The ceremony of *laying* the hand upon the book, is undoubtedly of *Pagan* origin, and was introduced among the primitive Christians from the example of the heathens, who were accustomed to swear in the *presence* of their false-gods, and sometimes by actually *touching*, or laying the *hand* upon the sacred utensils of their superstition. The mode appeared solemn and affecting to the Christians; and therefore the *presence* of the Bible when they swore, was substituted in the place of the false gods of the Pagans, and was produced as a *sacred memento* of the religious obligations they were under to speak the truth. Hence we find some of them swore with the hand laid upon the Bible—some with the Bible *spread* open before them—some by laying their hand upon the *breast*, others with the hand *stretched out*, or *lifted* up towards Heaven; but *always* with the sacred book in in their immediate *presence* and *sight*. The insatiable spirit of superstition which finally terminated in the establishment of Popery

had at that time made considerable progress in the Christian church ; and to this spirit we must ascribe the circumstance of *kissing* the book, and the expressions we sometimes meet with in ancient writers “ So help me God and his saints,” which last words, viz. “ and his saints,” have been omitted by the Protestants ; though they still retain the former, and the ceremony of kissing the book.

Thus we see the mode of swearing among us, is partly of Pagan, and partly of Popish extraction. Among the early Christians, great latitude was admitted with respect to the form of swearing ; nor does it appear that any mode whatever was *prescribed* ; but that every person made use of the form most agreeable to his *conscience*. Even in the reign of Charles the Second in England, we meet with an instance of a doctor Owen, Vice-Chancellor of Oxford, who being summoned as a witness, refused to be sworn by laying his hand upon the Bible and kissing it ; but he caused the book to be *held open* before him, with his right hand lifted up towards Heaven, and was sworn in that form. The jury conceiving some doubts, whether he de-

served as much credit as a witness sworn in the common form, put the question to the court. The chief justice, with the utmost liberality, told them, that the doctor had taken as strong an oath, as any other witness, and was as much entitled to belief ; but added, if he himself was to be sworn, he would lay his right hand upon the book.

These, and many other forms of swearing, have been made use of in the world. But an oath does not consist merely in form. It consists in something more than laying the hand upon the Bible—kissing it—looking at it—or having it placed in our sight with the hand held up or stretched out. These are so many shadows, and alter not the nature of the transaction. It is the solemn appeal to God ; it is engaging to speak the truth, and calling upon him to witness our sincerity, that constitute the oath and obligation. If this be done, it is immaterial whether *any* or what form be used. Whether the witness kiss the book, or lay his hand upon it, or whether he does neither, he is equally bound to speak the truth ; and if he does not, he is guilty of perjury. But though oaths are obligatory in

religions, however indistinct the views they exhibit of God and his attributes, yet is their force peculiarly binding in Christian countries ; because the sanction of rewards and punishments is more fully revealed by the Christian religion, and consequently the degree of guilt in transgressing the rules of moral duty, must be greater.

But can this appeal be made by every body ? Can this security for speaking the truth be given by every one ? Most certainly, Gentlemen, it cannot.

It is impossible this appeal should be made, or this security given, by those who do not believe in *one God* as the creator and governor of the world. A Turk, or Indian believing *this*, may be a witness, and a Christian renouncing the belief of it, or through ignorance unacquainted with it, is utterly incapable of being sworn in our courts of justice. The ties of religion can have no effect upon a mind, in which no idea of religion can be found, and there can be no religion if you take away a belief in the *existence* of a God, because it is the foundation of *all* religion. Upon this gound, Lord Kenyon, the present

Chief Justice of England, rejected a person as incompetent to give evidence, who knew nothing of the obligations of an oath, of a future state of rewards and punishments, had never learned his catechism, and only heard there was a God, and that those who told lies would go to the gallows. A person disavowing a belief of these principles, stands in the same predicament, with one who is entirely ignorant of them, and consequently cannot be a witness.

If the obligation of an oath depends wholly upon the sense and belief of a Deity ; that he abhors falshood, and will punish perjury ; and if oaths are necessary for the maintenance of peace and justice among men ; it clearly follows, that a belief in the existence of God, is necessary for the support of civil society. Every thing therefore that tends to unhinge our belief in this important principle, must be reprobated by all good men ; because it tends to weaken the security of an oath.—Lord Mansfield has asserted, what no person will venture to deny, “ that no country can subsist a twelvemonth in which an oath is not thought binding ; for the want of

(he adds) must necessarily dissolve society." Whatever therefore relaxes the religious *sentiment* upon which an oath is founded, is injurious to society; because it *lessens* the restraint which the belief of that salutary principle imposes upon the human mind.

It is with perjury as with all other crimes—there are certain paths that lead to it; and there are some persons who may never arrive at the commission of this horrid crime, yet there is reason to fear, by their practices and example, they may be the *means* of others falling into it. One deviation from moral rectitude necessarily leads to another. He who has robbed his neighbour, will not hesitate to deny it with a lye or an oath, if such a denial may be the means of his acquittal. Drunkenness is often the foundation of quarrels, which not unfrequently end in murder or man-slaughter.

The two vices that more immediately lead to perjury, are the infamous habits of lying, and swearing in common conversation. With respect to the person who has been accustomed to disregard truth in the ordinary occurrences of life, besides the pernicious ex-

ample he sets to others, it is much more likely *he* should fall into the crime of perjury, than the man who is distinguished for strict veracity in his conversation. As to the impious vice of common swearing, to say the *least* of it, it is so absurd in itself, that nothing can possibly exceed the *guilt*, unless it be the *folly* of it. And were it not that it becomes criminal when viewed in its consequences upon civil society, would deserve to be mentioned only to be despised. It is indeed to be lamented that so many persons of rank and good sense among us, are addicted to it.— They little think, while they are invoking the vengeance of Heaven upon themselves and others, and confirming the most trivial assertions with the awful name of the Deity, that they are scattering firebrands, arrows, and death all around them. Man is an *imitative* animal ; and the lower ranks are eternally copying the manners, and even the expressions of those they have been taught to look upon as their superiors in education and stile of living. Though we are ready to admit, that persons of rank and sense, who are guilty of this vice, if called upon to swear in a court,

would scrupulously adhere to the truth, yet are they, by the force of their example, doing infinite mischief, by inducing others to treat with contempt the name of the Deity, who perhaps may not be restrained from perjury by the advantages of a good education, and better reflection, which their superiors may have enjoyed. It is indeed a self-evident proposition, that an habitual profanation of the name of God, by the familiar use of oaths and curses in common conversation, must very much tend to lessen that awe and reverence of the Supreme Being, which is one of the strongest guards against perjury ; and consequently be in a high degree, injurious to society. It is for this reason our laws have endeavoured to restrain common swearing, and have made it an offence punishable by a magistrate. Such however is the *unfortunate* predominance of custom, that the law is *seldom* put in execution : and this in fact will be *always* the case, while men of influence, in *elevated* stations, lead the way in the violation of the laws. Their example, like a torrent, *sweeps away* all before it ; and the law seems to be

silently repealed, by the rank, the character and the number of the offenders.

Let the pretensions of a person to virtue be what they may, if he conducts himself in any manner *injurious* to his country, and forbidden by the laws, he is at best but a *pretender* to the character of a *good* citizen. His *actions* speak *louder* than his *words*, and mark him the decided enemy of social order and public happiness. “By their *fruit* you shall know them”—is not *less* true, when applied to detect the *pretender in patriotism*, than the *hypocrite in religion*. The man who, by his *immoral* practices, is constantly infringing the laws of order, and spreading confusion through the moral world, contributes his utmost efforts to involve every thing in anarchy and ruin ; and whatever may be the language of his *lips*, with his *vices* he is *stabbing* his country to the *heart*.

I observed, Gentlemen, that some oaths are called promissory ; such are all oaths of office, and some others. This mode of exacting the performance of a trust, by the additional security of an oath, is universally

practised by civilised nations ; and though by our law the punishment of perjury cannot be inflicted for the violation of such engagement, yet it may be prosecuted as a *misdemeanor* ; and in the sight of God the guilt is equal to the case of perjury, where facts are misrepresented or concealed. In the eye of reason there can be no difference, between a person's swearing to a fact that *never* existed, and swearing that he will perform a particular act, and *wilfully* omitting it ; or swearing that he will *not* perform a particular act, and afterwards *deliberately* doing it. There are doubtless different degrees of malignity attending the crime of perjury, as well as all other crimes. Yet I cannot avoid remarking that perjury in the case of *violated* promises, may be, and frequently is, a more aggravated and detestable crime than even swearing to a direct falsehood, because it is accompanied with a perfidious breach of trust. In the case of marriage, for example, which is generally understood to be a contract, fortified with the solemnities of an oath, scarcely any guilt can exceed the violation of it. It is a cruel breach of trust, coupled with perjury ; and tends di-

rectly to destroy the peace of families, and to tear up the very foundation of society. Contracts and oaths must have *some* meaning ; but if the *inconvenience* of executing them, or mere *whim* and *pleasure*, be admitted as an excuse for the breach of them, then farewell, Gentlemen, to all honor and honesty. If *one* of the parties be discharged, the *other* cannot remain bound. The consequence of both parties being released from obligations, whenever *either* party shall *feel*, or *fancy* he feels, an inconvenience from *adhering* to his contract, must be this—that every person will be at liberty to rescind his solemn compact whenever he pleases. A doctrine pregnant with the most horrid confusion, and the entire subversion of society.

The true criterion or standard of any action whatever, is this—What would be the result to society if every *other person* did the same thing ? In this scale a man may weigh his actions, with the utmost nicety—by this rule he may measure the innocence or criminality of every step he takes in life. Suppose, for example, *all* persons were to abandon themselves to adulterous courses ; or suppose

an *universal* and *unrestrained* intercourse to take place between the sexes : in *either* of these cases, such an universal depravity of morals would ensue, as must utterly destroy society.

Every *single* act therefore, comprised in *either* of these supposed cases, must be unlawful. If *one* man has a right to be his *own* avenger, every *other* person must have the same right. But if all men were to execute their own revenge, desolation, rapine and murder would quickly overspread the land. Every *single* act of revenge, therefore, is utterly repugnant to social obligation.

From the consequences of any action being injurious to the public welfare, if *universally practised*, we infer, that every *single action* of the same kind or description, is criminal. The rule will hold good when applied to lying, stealing, drunkenness, and every other vice. For if *one* man has a right to steal, to tell a lye, to get drunk, or to violate his solemn promises as often as he pleases, so has every *other* man. But if *all* men were to give in to these practices, society must be annihilated ; for it could not possibly exist, if it

were entirely composed of such infamous wretches. In the one case, there would be no such thing as property—in the other, no truth, or dependence of one man upon the words of another ; and in the third, viz. a society composed of drunkards, universal wretchedness must be the inevitable consequence.

From these observations, Gentlemen, we cannot but perceive the destructive tendency of vice, in its *very nature* ; and how utterly incompatible it is, with the *interests* of society. It is at the same time agreeable to remark, the coincidence, the perfect harmony, between the *precepts* of heaven, and the necessary *consequences* of human actions.

The laws of God forbid the indulgence of our passions only in *such* cases, where their gratification would be injurious to *ourselves* or our *neighbours*, and enjoin the performance of *all* those duties, that are calculated to improve the heart, or promote the welfare of others. The Christian religion is in fact the *surest basis* of morality, and consequently, of order and good government.


Of this heaven-born religion, it is the peculiar characteristic, that while obedience to its commands constitutes the highest felicity of the *individual*, the practice of its benevolent precepts, is, at the same time, the *firmest foundation* of social happiness, and public prosperity. In the elegant language of holy writ, “her ways are ways of pleasantness, and all her paths are peace,” even in this world.—“Righteousness exalts a nation ; (that is, makes it flourish) but sin is a reproach to any people ;” and by slow, but sure steps, under *any* form of government, inevitably leads to national misery and destruction.

16

EXTRACTS FROM A CHARGE ON PATRI-
OTISM.



[DELIVERED BEFORE THE GRAND JURY IN
NORTHAMPTON COUNTY, APRIL, 1799.]

IT cannot then be denied,)
that the public prosperity of our land, de-
pends upon the virtue of the people, and that
the practice of vice, like a cancer in the ~~corrupt~~ nat-
ural body, will at last extend itself to the vi-
tals of the country, and cut off our national
existence. If this be the case, we may safely
assert, that no man loves his country, who
lives in the habitual violation of any rule in
her moral code ; because by so doing he con-
tributes his aid to accomplish her destruction.
He may call himself a federalist, or an anti-
federalist—a republican, or a democrat—or
whatever else he pleases ; it is certain, he is
but a pretender to the character of a



It is impossible *he* can love his country, whose life and actions are hostile to her true interests. Party and personal prejudices he may possess in abundance, which, to the world, and perhaps to himself, he may cover with the mantle of zeal for the public good. But the love of his country is a stranger to his heart.) Examine for a moment, Gentlemen, the force of this observation, by your own experience in private life. (Suppose one of your neighbours, to profess a regard and affection for you, and at the same time to make a practise of thwarting your views, and *defeating* the plans you had laid to promote your happiness or your interest. There is no doubt you would despise his professions, and call him a hypocrite. Nor can *he* be pronounced any thing better, who tells you he loves his country, and is at the same time habitually infringing those laws, on which her salvation and prosperity essentially depend. Away with such patriotism ! It is "Hail Master !" with the lips, and at the same instant a stab to the heart. I call *that* man a disorganizer, let his political principles be what they may, who is spreading through the moral world, the seeds

of disorder and vice, and thereby sapping the foundation of *all* government.) [Our country may well expostulate with the immoral man in language used of old time—"If you love me, you will keep my commandments—Ye are my friends, if ye do whatsoever I command you." (In short, Gentlemen, as in Christianity, so it is in patriotism—Obedience is the unerring criterion, the sole decisive mark of affection. If you really love your country, you will observe her laws, and her statutes, which are framed to promote and to perpetuate her welfare. Believe, and forgive me—a gambling, lying, drunken or swearing patriot, is as great a contradiction, as a whoring, swearing or drunken Christian; though in the practical estimation of the two characters, mankind have made a wide difference. The hypocritical pretensions of the patriot are too often successfully played off, while those of the pretended Christian are sure to exclude *him* from the character.) When we urge the necessity of supporting government by means of religion, something more is expected than a cold assent to its principles and its doctrines.



*Heu. Virtus laudatur et alget.**


If the public institutions, established for the purpose of impressing the precepts of religion, are deserted and neglected, it is the height of folly to expect government will derive advantage from any system of religion whatever, it being evidently impossible there should be such a thing as religion in the world, without *some* forms of public worship, and the solemn acknowledgment of the Deity and his controlling providence, in our social capacity.

(What shall we say then of those persons who, by their language, or their example, discourage the religious institutions of our country? It is impossible to rank *them* in the class of patriots, or friends to social order. As to those who openly go about to abolish *all* religion, there can be no doubt the tendency, if not the very *object* of *their* labours, is universal anarchy and misery—In neglecting its institutions, *they* act therefore perfectly in character. But the well-wishers of government among us, are in this respect peculiarly reprehensible. Like false and inadequate props, they overturn the very building

* *Probitas—Juvenal.*

they mean to support. They weakly attempt to accomplish the end, without making use of the requisite means, and act a part altogether inconsistent and irrational.

It is readily acknowledged, that immoral men often render essential service to their country. Some of the most worthless and profligate of the human race, have been the honored instruments in the hands of Providence of procuring the greatest national blessings.) Henry the Eighth, and the Duke of Marlborough, contributed eminently by their actions to the glory and preservation of the English nation ; but nobody ever supposed they were influenced by a love of their country. (Caprice, promotion, or the whistling of a name, have given birth to the greatest achievements recorded in history. What would you think of a man who, in the very act of conferring a favour on an acquaintance, should inflict the most deadly wounds on his person ?—Would you believe he had any affection for your murdered friend ?—You certainly would not. Just so much true patriotism has that man, who, by his vices, is daily diffusing through society the most



lignant poison, and at the same time, from pride or some other motive, perfectly compatible with a heart dead to every sentiment of public virtue, is *occasionally* performing an act that redounds to his country's welfare.)

(The true notion of patriotism, is, a principle of obedience to the laws of God, and of our country, manifesting itself in the discharge of our religious, moral, and social duties.)

(This is substantial patriotism, within the reach of every man, high and low, rich and poor, and that does not evaporate in empty noise) about the Rights of Man, or the Virtue of Federalism. It is the sort of patriotism we stand in need of at this critical juncture. A country over-run with moral disorders, cannot be long exempt from political paroxisms of convulsive and fatal tendency. (Groundless and futile are the apprehensions entertained by some persons, to the cause of liberty from our rulers, who, deriving their existence from popular election, the instant their oppressive hand is felt by the people, that instant they will remove it, with the same facility that the "Lion shakes the dew-drops from his mane." The only real source of

danger to our country, arises from the conduct of the *people themselves*, and from the alarming progress of infidelity, and the decay of morals among us. It is a truth established on uniform experience, that where the manners of a people are repugnant to the execution of a law, the arm of legislative power has been found too feeble to enforce it.) [In support of this observation, I may appeal to the detestable practice of common swearing, which keeps its ground in opposition to the laws of the land, and to every principle of religion, decency, and morality. Read over, if you please, the Act of Pennsylvania, for the suppression of vice and immorality ; and it is an hundred to one, but the first company afterwards you enter, especially if it be in a tavern, will extort the melancholy reflection, that the laws of the land are a perfect satire on the morals of the people. (Vain, and worse than vain, are laws for the preservation of government, if the people are too debauched and corrupt to execute them. If we are in earnest in our wishes to save our country, we must therefore begin by a reformation of her mor-

als.] We must make good the tree, if we expect good fruit from it. In a representative government, no truth can be more important or self-evident than this. (Let us then, Gentlemen, in our several stations, encourage virtue, and discourage vice in others. In an especial manner, persons of authority and influence, should promote the cause of good morals. Every individual should discharge his duty, as a part of the grand community, with a view to the production of the public good, and general happiness.)

(Above all things, Gentlemen, the principles of Christianity should be cherished, and its religious institutions be encouraged by every man who wishes well to his country. A government like ours, floating on the precarious tide of public opinion, can be held *securely* by nothing else, but the principles of religion ; and if it be once driven from this anchor, by the storms of irreligion and licentiousness, it will quickly be overwhelmed by the waves of popular fury and violence.— Well might the great Montesquieu, speaking of Christianity, and the transcendent excellence of its moral code, exclaim with rapture,

“ How admirable is that religion, which, while it seems only to have in view the felicity of the *other* world, constitutes the happiness of *this* !” The precepts of this religion, which teach us to be diligent in our several stations—to govern our passions—to be obedient to our superiors and rulers—to do good to all men, and whose very essence is peace and good-will to men—the precepts of this religion, *reduced to practice*, would soon change the face of our affairs. Our country would become a band of patriots—order would arise from a state of confusion—harmony take place of discord, and the blessings of a mild and peaceful government be diffused through every part of our nation and land. 5

UPON THE INSTITUTION OF THE
SABBATH.

[DELIVERED BEFORE THE GRAND JURY OF
LUZERNE COUNTY, AUGUST, 1800.]

Gentlemen of the Grand Jury,

RELIGION and government are the two great and important topics, that have employed the thoughts, and divided the opinions of the wise in every age and country. Strongly connected and blended as they are with each other, involving, at the same time, our most invaluable interests, both *here* and *hereafter*, it cannot be deemed surprising, that the utmost efforts of the human understanding should be called forth, in the investigation of subjects of such momentous concern. *Religion* is essential to the happiness of man : and government was designed by the great Author of our existence, to be the means of enabling us to obtain a higher degree of happiness. Every law, or social re-

gulation, so far as it has a tendency to *defeat* the purposes of religion, and morality, is therefore so far subversive of the *end* for which government was instituted. How far the establishment of religion, in general, or any particular system and forms of religion, may be compatible with policy, or the rights of private judgment, is a question not now to be discussed. Happily, the utmost liberality of sentiment has always prevailed in Pennsylvania. The laws tolerate every religious sect, in the greatest latitude, without granting exclusive privileges to any. One position may however be safely assumed; namely, that every legislature is under indispensable obligations, to extend the influence of virtue, to discountenance all those vices that are forbidden by the precepts of religion, and which at the same time, *are pernicious to society*. Strictly speaking, there is no such thing as an offence against *religion*, known to the laws of our country. It is only because certain acts *disturb*, or have a *tendency to disturb* the peace and moral order of the community, that they are punishable by human tribunals. Altho'

our law punishes murder, theft, blasphemy, swearing, and other crimes, yet it does not punish them as violations of the *divine law*. The act of April, 1794, for the prevention of vice and immorality, gambling, and disorderly sports, which also restrains unnecessary labour on the *first* day of the week, is entirely silent with respect to religion : and the word *religion* is not to be found in the act from beginning to end. The legislature have viewed the subject in *connection* with its political consequences, and have proceeded on grounds and considerations purely secular. The All-powerful Deity is infinitely able to punish the transgressions of his own laws, and to maintain the rights and dignity of his moral government. Our laws look no farther than to overt acts, and consider *their tendency to subvert the peace and happiness* of society, as the sole rule of estimating the demerit of actions, and the only *standard* of legal punishment.

With good reason the ablest legislators have endeavoured to frame their laws and constitutions on the basis of religion ; well knowing the predominance religious sentiments have always had over the human mind.

Man has been not improperly defined *animal religiosum* ; because religion of some kind is essential to his make, and inseparable from his nature. Even the most absurd superstitions, and extravagant ideas of the government of the world, by invisible beings, are infinitely more favorable to human happiness, than downright Atheism ; for a false religion is universally acknowledged to be better than none.

Actuated by similar views, and pursuing the same laudable policy that has influenced other rulers, the legislature of our state, by forbidding all unnecessary labour on the *first* day of the week, have wisely called to the *aid* of government, one of the most important institutions of the Christian religion. The law containing this clause, is, in my opinion, one of the most salutary in the book of our statutes. Its object, as the title imports, is to prevent that inundation of vice and immorality, that proved the bane and ruin of thousands of individuals ; the scourge of nations, and bottomless gulph in which all the vast empires that ever existed, have been finally swallowed up.

To prevent this dismal catastrophe to our country, the law just mentioned, besides interdicting labour on the *first* day of the week, and *so far* adopting the precept of Christianity, has, from the same motive of public good, pointed its prohibitions and its penalties against duelling, blasphemy, drunkenness, gambling, and many of those destructive habits, in which it is well known the more irregular and vicious part of the people, generally indulge. A law thus beneficial in its effects—the palladium of public virtue—the shield of government—deserves the most attentive consideration of every man. It is a public law of the land, of the greatest importance and universal concernment. It is therefore apprehended, an explanation of the various parts of it, as arranged in the law, will not be deemed improper in a court, whose incumbent duty it is to watch over the morals of the people ; and to enforce, by every argument in their power, entire and unreserved obedience to the *best* laws of our country.

The first section in the law, and upon which I mean now to address you, is that

which prohibits all worldly employment or business on Sunday, except works of necessity and charity ; and forbids, *without any exception*, all gaming, hunting, shooting, and *other* sports and diversions whatsoever. A proviso in the law, authorises the preparation of necessary food in private families, and in public houses, for strangers and travellers ; the conveying passengers, and persons removing with their families, over ferries ; and also, the sale of the necessities of life, *before* nine in the morning, and *after* five in the afternoon, in our public markets.

But it may be asked, why are the hands of industry thus bound up—why are the people restrained from labour, upon every seventh day ?

Very good reasons, Gentlemen, may be assigned for it ; otherwise the wisdom of the MOST HIGH would not have enjoined it, at the creation of man ; afterwards made it a part of the decalogue to the Jews, and finally continued it under the Christian dispensation.

The gradual exercise of Almighty Power, by which this *world* was created, in the


space of six days, was no doubt intended as an instructive lesson to those intelligent beings that were destined to inhabit it. Upon the *seventh* day, we are told, the Deity ceased from his labours; and directed his creature *man*, ever after, to consecrate it as a HOLY DAY, in honor of creation; thereby to commemorate the glorious event. Nor is it possible to conceive, that any *means* could be devised more likely to impress the idea, that the world was the *work* of an Almighty Hand, than instituting a *certain* day, to be kept in memory of it. It is therefore reasonable to believe, this was *one* end, proposed by the institution of the Sabbath: at the same time, it had a direct tendency to banish the extravagant notion of the *eternity* of the world, and to guard against the idolatry of the sun, moon, and stars; to which, we know, mankind have been extremely prone in every age and nation. The dispute concerning the origin of the earth, which so much perplexed and bewildered the heathen philosophers, is solved in a moment, by the sublime declaration of the Jewish legislator—"God said, *let there be light*, and there *was* light."

With respect to the septenary division of time, it is worthy of remark, that it prevailed in the earliest ages, and was observed not only by the Jews, but by the more *ancient Egyptians*, and by the Assyrians, Persians, and Arabians ; among whom it was the constant usage to divide the week into *seven* days. It is (I think) totally impossible to account for this division of time, and its prevalence in the most remote and dark ages of antiquity, on any other supposition, than its being instituted in honor of creation, and handed down by tradition, through successive generations of men.

It is the attribute of wisdom, to proportion the means to the end ; and it is the character of Infinite Wisdom, both in the moral and natural world, to render all his operations subservient to the production of the greatest possible good.—Man is a compound being, consisting of both soul and body, and has the interests of both to provide for ; the institution of the Sabbath has therefore a two-fold aspect—it has reference to his *present* as well as to his *future* state of existence. It is designed and calculated to promote his happi-

ness *here*, and to secure it *hereafter*, Abstraction from worldly employment, is enjoined, that religious worship may be observed. The reason explicitly given, why man should rest from his labours every seventh day, is, that he may have leisure from the noise and bustle of the world, for devout contemplations ; and for acquiring those habits of piety, without which, all hopes of future felicity, are entirely fallacious. It is in the highest degree irrational to imagine, that religion consists in a few acts, or in the cold performance of an occasional duty. To the understanding and good sense of every man, it is evident, that religion is a settled disposition—a habit—a temper—an entire devotion of the heart, to please that Being, whom it is our highest interest to please and to obey. But I would ask, can this disposition—this habit be acquired, without the use of stated means, and the most vigorous exertions? The lawyer, the physician, and the mechanic, are trained for years, before they attain the knowledge, or are qualified for the exercise of their different professions. And every body knows, or ought to know, that attainments in virtue

are not made without constant discipline, and unremitted efforts. Considering the depravity of the human heart, there can be little doubt, that if certain periods had not been appointed by the Deity, for religious solemnities, every appearance of public and social worship would have been banished from the world. Absorbed in the busy pursuits of life, man would soon forget his duty to his Creator, unless a recurrence of *fixed and stated periods* had been instituted, to keep in mind his immortality, and to prepare for that untried existence, for which he is ultimately intended. Between the *two* worlds, God has established an indissoluble connection ; and it is an immutable truth, that virtuous habits acquired in *this*, are indispensibly necessary to lay a foundation of happiness in the *next*. In short, such is the constitution of human nature, and its propensity to keep out of sight the future world, that nothing less than the expedient of appropriating a certain *portion* of time for the duties of piety and devotion, would be sufficient to prevent religion, and every vestige of it, from being totally obliterated from the face of the earth. G



Nor is it less undeniably true, that the institution of the Sabbath, is calculated to advance the *temporal*, as well as the *moral* and *spiritual interests of mankind*. This will appear evident from the reflection, that in all probability, social and public worship was the principal design of instituting the Sabbath; and that in the sanctuaries of religion, it is natural to suppose, those useful impressions would be made, that have a tendency to advance the interests of virtue, and the general happiness of mankind. Here it is, men are taught their duty to God, and to their fellow-creatures ; enforced by the powerful consideration of future rewards and punishments.— Here they are taught the awful consequences of vice, and that nothing but a life of piety, and obedience to the laws of heaven, will procure final happiness beyond the grave.— Here they are taught, that the design of the great Author of Christianity, was to inspire men with mild and peaceable dispositions, and with an utter abhorrence of every species of fraud, falshood, cruelty and injustice.— Here they are taught, that without holiness, the strictest morality, and universal benevo-

lence, future felicity is absolutely unattainable.—Here they are taught, in their intercourse with the world, to exhibit gentleness and courtesy of manners towards all men ; not from the ignoble view of acquiring popular applause, but as the means of cultivating that affectionate and brotherly frame of spirit, which is represented in Scripture, as the most decisive evidence and criterion of love and obedience to the great Parent of the universe—In fine, here is inculcated the *practice* of those eminently Christian virtues, meekness, charity, and forgiveness, as the indispensable condition of obtaining our *own* forgiveness. And can there be any doubt, that the public delivery, and frequent inculcation of precepts so sublime and benevolent, must have the happiest effect in correcting the manners and mending the heart, and thus powerfully contribute to maintain the cause of virtue and order, and the general interests of society ? Deeply immersed as the bulk of mankind are, in the laborious employment of life, it cannot be expected they should have it in their power to devote *much* of their time to the acquisition of religious knowledge. How

admirably adapted then is the institution of the Sabbath, to the condition of the poor, and industrious classes in society ! the main design of which is to dispense, at stated periods, instruction to those, who seem to have no other means and opportunity of attaining it.

Even in the *portion* of time allotted for religious exercises, there is the evidence of consummate wisdom, and an unbounded knowledge of the human frame. If *less* than a *seventh* part had been allotted, there is reason to believe, it would not have produced the slightest effect, either upon the heart or life. The interval would have been too distant—and every advantageous impression would have been effaced from the mind. From experience also we are taught, that after six days of unremitted toil and drudgery, the body stands in need of rest, and acquires from it renewed vigor and elasticity.

On the other hand, if a *third* or *fourth* part had been allotted, besides rendering men extremely speculative, and detaching them *too much* from the affairs of the world, it would have left too little time, for the laborious occupations of a creature, who is compelled to

live by the sweat of his brow, and to make provision for the continual wants of a helpless and needy offspring.

These loose and general observations, on the use and design of the Sabbath, and the advantages resulting from the institution, both to the *temporal* and moral interests of society, are made with the view of enabling you to understand the reasonableness and propriety of our law, in directing a cessation from labour on the first day of the week. The legislature have considered the subject rather in the light of a civil institution ; but have taken the idea from the Christian religion, and have *thus far* adopted one of its positive laws, as a rule of *municipal conduct* to the citizens of Pennsylvania. The divine law, it is true, goes farther than ours ; it not only enjoins rest, and restraint from labour on the first day of the week, but it requires that the day be also consecrated to the purposes of religion. Our law prohibits secular employment and business—here it stops, and meddles not with the *heart* ; for the best reason in the world, that it is impracticable in human government, to

compel the performance of religious duties.

In one point, and that a very important one, our law concurs with the divine law. They both admit that works of *necessity and charity* may be done, on the first day of the week ; for as the Sabbath was made for *man*, and not *man* for the Sabbath, the observance of it necessarily gives way, when it comes in competition with moral obligation, or the indispensable duty of self-preservation. It would be difficult, if not impracticable, to state with precision, what are works of necessity and charity ; because questions of this kind depend on a great variety of circumstances. And perhaps it would be proper to have recourse to the divine law, from which *ours* is certainly derived, for a solution of some difficulties that may arise on this subject. The expressions are very indefinite, and admit a pretty wide latitude of construction, which in all probability will be seen to vary, according to the character and principles of the judge or magistrate.

In sundry instances, the laws of our state have recognised the *first* day of the week, as a day of rest ; particularly by declaring, that

all process executed thereon, shall be void ; unless it be in the case of treason, felony, or breach of the peace. And so far does the *common law* venerate the Christian Sabbath, that it not only invalidates all law-proceedings on that day, but likewise all sales in market overt, and all *other* contracts whatever.*

Gentlemen of the Grand Jury,

Notwithstanding all that has been said in favor of the institution of the Sabbath, as a means of procuring individual happiness, and national prosperity, melancholy experience shews, there is no law of heaven or of earth, that is more generally violated. This is the more to be regretted, as it seems to be the contrivance of *infinite* wisdom, to keep up a sense of religion in our world, without which government and morality cannot long subsist. In the present age, we have *not* our *choice* of two religions ; for it might be *some* consolation, while we are extinguishing every ap-

* 2 Inst. 264, 265. Wood's Inst. 214. 2 Inst. 713. Shepp. Abridg. 3d part. 181. See 1 Swift's Connecticut Laws, a note executed at *noon* on Sunday, held void.—Secular business *unlawful* from *morning* light till *evening*.—page 367.


pearance of Christianity in our country, if we had the wretched prospect of relapsing into the errors of Paganism. But the case is otherwise ; for if we destroy the Christian religion, we shall have *none*. It has been often said, the Sabbath is the palladium of our religion, and that as this day is observed or neglected, Christianity will stand or fall. If this be really the case, there is reason to fear, it will not be of long continuance *among us*. One thing, in my judgment, is certain. If it does fall, it will fall like a strong man—it will pull down the pillars of government, and bury our country in the ruins. Every wicked man is an enemy to his country ; because he breaks her laws, and spreads the contagion of vice around him ; and because his conduct has a direct tendency to bring down the vengeance of heaven on his devoted country. Though we may be secure in *this part* of the world, from earthquakes and famine, yet there are *other* methods of punishing vicious and ungrateful nations. A people who disobey the laws of God and man, have no right or reason to expect a continuance of their prosperity ; because obedience to the law is the

appointed means of attaining it ; otherwise the laws had never been made. There is no other way of discharging our duty to our country, but by yielding obedience to *all* her laws ; not *this* or *that* law, but *every* law. Men are influenced by different passions and appetites. Some persons dislike *this*, others *that* law ; and there are *some* so bad, that they hate *all* law. One man is averse to the law that forbids tavern-haunting on Sundays, a vice, which, by the bye, is very common among us ; and therefore he breaks it. Another laughs at the law, that forbids swearing and blasphemy, and therefore he breaks it. A third complains of the law, that restrains sports and diversions on Sunday, and therefore he breaks it.—In the name of goodness, Gentlemen, what is to become of a country, where the laws are thus openly insulted and violated by every man at his pleasure ? We might as well expect order among drunkards, or *virtuous conduct* from a parcel of prostitutes, as government among a people who have no sense of the obligations of law, religion, or morality. As the divine Author of Christianity said to his followers—“ Ye are

my disciples, if ye do whatsoever I command you ;"—so I say to you, Gentlemen, You are good citizens, if you do *whatsoever* the law enjoins ; not if you obey this, that, or the other law, but *every* law. Remember, there is no such thing as patriotism by the halves ; and that to entitle you to the character of *good citizens* ; your obedience should be uniform and universal ; for a *partial* obedience, implies *resistance* and *opposition* to government in all *other* points.

Upon the whole, it is high time for the friends of virtue and order among us, disregarding the sneers of the ignorant, or unprincipled profligate, of whatever rank or character, to stand up in defence of our country, against the torrent of licentiousness, that threatens to sweep away religion, law and government. *To the judiciary*, her defence is, in a peculiar manner, entrusted by the law *now* under consideration ; which, in pointed language, never used on any *other* occasion, calls distinctly and severally, on the *Judges of the Supreme Court ; the Presidents of the Districts ; on every Associate Judge, and Justice of the Peace ; on the Mayor and Aldermen of*

Philadelphia, and on *every Burgess of a corporate town*, to aid her in bringing to justice, all persons who may offend in *any* instance, specified in the act. So general, however, is disobedience to this law, and so great the contempt of public authority, that a stranger passing through our country, would rather suppose we had a law *enjoining* sports and diversions on Sunday, under a heavy penalty, than one *forbidding* them. To the disgrace of our police, and to the irreparable injury of our youth, most of our country towns exhibit on that day, one continued scene of violence, tumult and uproar ; which the magistrates seem to be no more concerned to suppress, than if they had nothing to do with the support of law and government. This illegal and scandalous behaviour may, and ought to be checked, by directions to the Constables to apprehend all offenders, without any respect to persons ; and directions of this kind may be easily given to the Constables, who are the immediate officers of the Justices, and always at hand to receive and execute their lawful commands. To the reasons already given of a public and general nature, for executing



the law on this subject, it may not be amiss to add in conclusion, that as it gives one half the fine to the *poor*, an ample fund for their relief might be procured by carrying it into effect, without the aid of *taxes* from the township. Thus the *vices* of one part of the community, would be the *means* of maintaining those of our fellow-creatures, who are no longer able to maintain themselves.

UPON PROFANE SWEARING.

[DELIVERED BEFORE THE GRAND JURY OF LUZERNE
COUNTY, NOVEMBER, 1800.]


Gentlemen of the Grand Jury,

THE inhabitants of Pennsylvania, have been highly favored with a succession of legislators, who, from time to time, and by a variety of laws, have endeavoured to extend the interests of virtue and morality. At the head of these, for many reasons, we must place the illustrious founder of the province, WILLIAM PENN, a man not less distinguished by accomplishments of the understanding, than the more important virtues of a character eminently pious and moral. The comprehensive mind of this modern Lycurgus, as he has been properly styled by Montesquieu, was deeply sensible of the absolute necessity of combining *religious belief* with a

corresponding practice, in order to lay a solid foundation for social happiness and prosperity. Under his auspices, and during his administration, the public acts of government, evince the greatest anxiety to blend with the civil laws of the country, those *religious* institutions that are calculated to advance the best interests of mankind. And though an unaffected sense of piety predominated in his mind, and always lay near his heart, yet it never led him to aim at any improper exercise of power, or to erect his *own creed* as a standard of popular belief. His Christianity was drawn from the purest sources ; and while it taught him the most profound veneration for the *rights* of conscience, it served to expand and illumine the genius of the law-giver. It was the opinion of this enlightened Christian philosopher, “ that no person should be compelled to *maintain* or to *frequent* any place of religious worship whatever—or be ever molested on account of any *religious* principles, *provided* he believed in the existence of ONE GOD.”—But however liberal his ideas were on controverted points of theology, yet the pernicious member of society—the immoral

man, whose actions are hostile to virtue and a good life, was justly held in abhorrence, and delivered up to the secular power, to be dealt with according to his desert. The drunkard, the swearer, the adulterer, the Sabbath-breaker, the gambler, with the whole crew of moral disorganisers, were, in his judgment, proper objects of legal cognizance ; because no dictates of conscience can be pleaded for violating the duties of natural religion, or justify overt acts, or even expressions, when they are subversive of private rights, or social order.

If the people of Pennsylvania at large, have derived no benefit from the excellent laws and instructive example of this truly great and benevolent legislator, we may be permitted to hope, the society at least, of which he was a conspicuous member, have profited by his precepts and by his labours. It is certain, that from some cause, the vice of common swearing, so generally and so shamefully prevalent in our country, is not so much as heard of among them ; and that they are still distinguished by an undiminished zeal in support of their public institutions, a punctual



discharge of their religious and social duties, and a rigid and scrupulous attention to the morals and education of their youth.—In these respects, they are highly worthy of imitation, and should be an example to every other denomination of Christians among us.

The law for the prevention of vice and immorality, in Pennsylvania, continued pretty much the same from the year 1705, till the late revolution, which separated the United States from Great Britain. It was then for the first time considerably enlarged, and assumed the general form and features it has since retained. Not only unnecessary labour on the *first* day of the week, was forbidden; but all *sports* and *diversions* were restrained. The same able and enterprising legislative body, that in the year 1780, laid the plan for the final abolition of domestic slavery, have happily incorporated into our municipal code, the *Christian* prohibition of all sports and diversions, as well as unnecessary labour on the *first* day of the week.

It was upon *this* subject, I had the honor of addressing the last Grand Jury, assembled for the county of Luzerne—and I then pro-

ceeded to go through a methodical discussion of the law of 1794, for the prevention of vice and immorality ; the second section of which, in course, now presents itself to view. This section imposes a penalty of sixty-seven cents, for profanely cursing and swearing by the name of GOD, CHRIST JESUS, or the HOLY GHOST—and for cursing and swearing by any other name or thing, the penalty of forty cents. If the penalties are not paid, the offender, in the first case, is to be committed to the house of correction, for a period not exceeding twenty-four hours, and in the latter, not exceeding twelve hours ; there to be fed with bread and water, and to be kept at hard labour.

Of all the vices, the wickedness and ingenuity of man have been able to invent, there is none that furnishes a more melancholy evidence of moral degradation and depravity of mind, than the practice of swearing in common conversation ; because it is attended with no possible advantage or pleasure.—With respect to almost every other vice that can be named, it may be easily traced

to some passion in the human breast; and in the momentary pleasure attending the gratification, we perceive the cause, though not an apology for the crime. The unchaste, the glutton, the drunkard, the adulterer may plead in their behalf, the pleasure resulting from sensual indulgence, and the strength of temptation, arising, perhaps, from some constitutional bias. We may, however, venture to assert; whatever predisposition to certain vices may be connected with particular constitutions, no person was ever born with a propensity to swearing or blasphemy, or ever experienced a moment's pleasure from it. To the commission of this crime there is no inducement. The swearer is neither stimulated on the one hand by the hope of profit, which animates the thief and the gambler; nor on the other by the prospect of gratifying some bodily sense or appetite, which influences the glutton, the adulterer, or the drunkard.


I well know, Gentlemen, that profane swearing is too generally considered as an offence of the most venial kind, and altogether below notice. But I take the liberty of say-

ing; this is the language of folly and inconsideration: for if the question be examined on the ground of reason or revelation, it will appear to be a sin of peculiar aggravation as it respects the Supreme Being, and of infinite mischief as it respects our fellow creatures. Permit me here to observe, that in reading over the ten commandments, the difference of expression in which they are delivered is discernible and striking. When murder is forbidden, it is said thou shalt *not* kill. When adultery is forbidden, it is said thou shalt *not* commit adultery. When perjury is forbidden, it is said thou shalt *not* bear false witness against thy neighbour. But when profane swearing is forbid, it is in language vastly more pointed and emphatic. It is written, thou shalt *not* take the *name* of the Lord thy God in *vain*; and an alarming reason is added to *this* case, and in no *other*; as if to shew a greater degree of transgression, and *certainty* of punishment—"for the Lord will not hold him guiltless," that is, according to a Hebrew mode of expression, he will most assuredly punish him "that taketh His name in vain." In short, if the entire absence of all tempta-

tion to vice, and the utter exclusion of all pleasure in the commission of sin, necessarily enhance the guilt of an action, we can be at no loss to account for Heaven's pointing its most dreadful thunders against swearing and blasphemy.

Should an earthly monarch permit the subjects in one part of his empire to trample on his authority, and to treat with contempt his name and character, the example would soon spread into other parts of his dominions, and be followed by the most fatal consequences to his government. A conduct of this kind, would demonstrate his imbecility and unfitness to sway a sceptre ; and under his feeble administration, every thing would soon rush into disorder and ruin. Now as God is the moral Governor and Ruler of the Universe ; the Sovereign not only of this world, but of unnumbered others, it is absolutely necessary that he should maintain good order in every part of his universal empire. It is necessary he should secure his name and government from contempt, in the estimation of the inhabitants of this lower world, as well as of the millions of moral agents that are dispers-

ed through the boundless scenes of creation, and who no doubt pry into all his ways and laws. The supposition that the command, not to profane the name of GOD, is limited to this small speck of creation, is a very narrow and erroneous conception of the subject, and altogether unworthy of the Sovereign of the Universe. On the contrary, there is every reason to believe, that it is a law equally extensive with moral agency, and binding on all ranks of intelligent beings, in whatever form, and wherever they exist ; because it is conceived a law of this kind is indispensably necessary to support the throne of God himself, and to the very existence of his moral government. But alas, Gentlemen ! such is the preposterous wickedness of man “ that he who acknowledges the most profound veneration to be due an earthly king, and darest not repeat his name without horror, yet blusheth not to profane the name of his Creator, and to call on him to witness to a lye. He who feareth to breathe a whisper against his earthly sovereign, trembles not to invoke the name of his God on the most trivial occasion. He forgetteth his Majesty, he re-



judgeth his judgment. Why art thou unpunished, O man; but that this is not the day of thy retribution?"

With respect to the more than brutal rudeness of common swearing, what shall I say of it, Gentlemen? It has been remarked, and truly, that politeness and good manners are displayed in an easy deportment and conversation, that renders a man agreeable to all around him. Slighting and disrespectful expressions of an absent friend, are acknowledged to be inconsistent with every idea of good-breeding and civility, because they excite uneasy and painful sensations. For the same reason, to traduce to your face, the character of one who is notoriously your patron and benefactor, has been always esteemed indecent and offensive. It is, no doubt, on this ground, the military servants of a monarch are supposed to be treated in a very improper manner, when their sovereign is spoken of in their presence in terms of reproach or dishonor.—Bring the matter home, at once, to your own bosom. Thou hast a friend, or perhaps a wife dearer than any friend upon earth. What would you

think in this case, of the person who should maliciously or wantonly sport with her fame and honor to your face, and in your hearing? The wretch who could thus speak daggers to your heart, would deserve universal execration, and to be driven from society as an unfeeling monster. Suppose then only for a moment (and we are confident the case will be often found to be more than supposition) that there are some persons in the world, who venerate, love and adore their Creator as the greatest and best of Beings, who are deeply sensible of their obligations to him, and whose hearts are filled with the most ardent gratitude to him for his mercy and goodness—Suppose, I say, a case of this sort, and you will then be able, by comparing it with the preceding, to form some idea of the agony and distress, a good man may be supposed to feel, when he hears the name of his Sovereign—Father—Friend—and Benefactor, treated with the highest irreverence, profanity and insult. Cease then, impious man, whoever thou art, to harrow up the very soul of thy brother—and let, at least, a sense of decency teach thee to respect the feelings of others, if

thou canst not be restrained by higher and better motives.

But however impious towards Heaven the offence of swearing may be, and however contrary to every maxim of politeness and good-breeding among men, yet neither its impiety or rudeness will be a sufficient ground for the interference of the legislature, to make it punishable in human tribunals. It must be something more than rude or impious, to warrant their inserting it in the catalogue of crimes, against social order.

Religion consists in what men are to believe, and what they are to practise—in other words, in matters of faith, and moral duties. Human authority has no right to prescribe what others shall think, or to dictate their religious creed. It is the prerogative of God to inform and to direct the conscience, and to him alone we are responsible for the rectitude and sincerity with which we form our articles of faith. The infinite diversity of opinion that has always prevailed on theological questions, is a clear demonstration of the impossibility of men ever thinking alike on these points. The fruitless efforts that have been

made for this purpose by the furious persecutor, or the sanguinary biggot, have, indeed, deluged the world with the blood of saints and martyrs, or occasionally made hypocrites, but never one single convert. On the supposition government is vested with a power of supporting and defending the laws of God, and avenging his cause, it will be impracticable to say when they ought to stop, or to decide what measure of punishment is adequate to an offence against the majesty of an Infinite Being. We know not in what light the transgressions of his different laws may be viewed in the divine mind; and it would be the most extravagant folly to attempt to make his infinite abhorrence of sin, the measure of human punishment. History furnishes a memorable instance of fanaticism arising from a mistaken zeal of this sort. An unfortunate Jew, having been accused, in the dark ages of Popery, of blaspheming against the Virgin Mary, was tried, and sentenced to undergo the dreadful punishment of being flayed alive on a public scaffold, erected for that purpose. Upon being brought forward, together with

the executioner, a number of gentlemen, armed with knives, instantly ascended the scaffold, and driving away the executioner, proceeded to carry into effect, the bloody sentence, with the utmost deliberation—in order, as they said, that they might themselves be the avengers of the injury done to religion, and the blessed Virgin. The notion that man is God's vicerent on earth, and the punisher of crimes committed against Him, is fraught with evil consequences, and is the most wild and destructive idea that ever entered the heated brain of an enthusiast. The Deity is the only Lord of conscience—and is infinitely able to maintain the cause of righteousness and truth, and the dignity of his own moral government, without the assistance of blind and feeble mortals. To him it is our duty cheerfully to leave the punishment of crimes, *considered as violations of his holy and all-perfect Laws.*

But though government has no right to impose articles of faith, or to inflict punishment for offences on the ground of being committed against Heaven, yet it certainly has a right to make use of all justifiable means to protect

itself against every thing that threatens its destruction, either from internal or external causes. It has clearly a right of self preservation. But as all immorality tends in its very nature, and by inevitable consequences, to the overthrow and ruin of society, government has a right to correct its mischievous effects in the person of the transgressor. This right of self-preservation, is the only true and genuine source of all lawful power, exercised by human governments. For this purpose, they may punish any and every act of immoral tendency—or, which is injurious in any respect, or degree to an individual, or to the society at large. When our laws punish murder, theft, or adultery, it is not as immoral acts or violations of the divine law; but because such acts necessarily tend to the subversion and ruin of society. So when our laws punish slander, it is not because the divine law has forbidden it, but because it is injurious to our neighbour, and has a tendency to disturb the general tranquillity. It is true, elementary writers mention the law of God, as one foundation on which our laws are built. But we are not to understand by

this that government derives its right to punish even immoral acts from revealed religion. The expression only purports, that when our laws punish immoral acts, they proceed in conformity to the laws of God, which have strictly forbid every thing of an immoral nature. Both laws prohibit the offence—and the prohibition by the human law accords with, and is supported by, the divine law. The penalty for the breach of the commands of God, having reference to a future state of existence, and the punishment for the violation of municipal laws, being of a temporal nature, shew that there is a conformity between the two laws only in the circumstance of the prohibition; and this unquestionably flows, in both instances, from the same cause, viz. the pernicious and destructive nature of vice. God having designed that virtue and order should subsist among men, has, no doubt, decreed the intervention and use of government as the means of furthering his designs in the world. In this sense, and in no other, is civil magistracy, in my opinion, an ordinance of God; and that form of government, is, consequently, most

agreeable to Heaven, which has the most direct tendency to produce these valuable ends.

But it may be asked, is profane swearing incompatible with the welfare and order of society? I answer, yes, every way, Gentlemen—and extremely so—and therefore the laws ought to restrain and correct it, agreeably to the principles that have been just laid down.

If government may inflict punishments on acts of immorality, which endanger its existence, such as murder and felony, it may lawfully forbid every thing that incites or leads to the commission of such offences. It is upon this principle the laws punish those who only counsel and advise others to the perpetration of a crime. It is universally acknowledged, that oaths are the grand cement of the social compact, the very ligaments by which government is kept together. From the President of the United States, through all the intermediate offices and departments, down to the constable of a township, the qualification of an oath is indispensibly requisite

to the execution of the trust. The judge, the lawyer, the grand-juror, and the witnesses, all make a solemn appeal to God, the searcher of all hearts, to testify to their truth and sincerity. Now, as oaths are the only security we have, for the preservation of life and property, and their binding force or efficacy depends almost entirely on the belief that God abhors falsehood, and will punish perjury ; every thing that weakens the sense of this obligation upon the conscience, must be extremely pernicious. But the general profanation of the name of God, by oaths and curses, must unavoidably diminish that awe and reverence of the Supreme Being, which it is well known, is the only effectual guard against the crime of perjury, and must therefore be vastly injurious to society. Our laws, with good reason, punish even the vice of lying, when it happens to wound the fame of a neighbour. The person who traduces another, and ascribes to him the commission of any enormous offence, is responsible in damages, unless he can support his assertion on the basis of truth and fact. It is scarcely necessary to add, that constant profanity leads

to lying—and that the practice of lying is the high road to perjury.

But swearing and blasphemy, though contrary to every principle of religion—of morality—of decency—and to the laws of our country, has, like all other vices, its advocates and its apologists—and it is said by way of excuse, that without knowing it, or meaning any harm, men frequently fall into the commission of this crime.

That so silly an observation should ever have been made, may well excite surprise; and much more so, that it should be so often repeated.

Where is the man, whose conversation is ever so much polluted with swearing, that does not immediately refrain from it, if brought into the presence of a king, or any other distinguished character, whose rank and station produce an awe upon his spirit? What is the reason that the most abandoned swearer lays aside his infernal dialect, standing before a court of justice, and answering in the capacity of a witness, juror, or the like?

The experience of every day is sufficient to convince us, that the same man, who, in p

vate life, is in the perpetual habit of swearing, is yet able entirely to overcome it when engaged in the discharge of a public office, where it would be incompatible with every idea of decency and dignity. A late celebrated English Chancellor,* who, as a private man, had long challenged an infamous pre-eminence in this vice, was never known to violate on the bench in a single instance, by a rash or improper expression, the public decorum due to his rank and station. For my own part, I should believe it might quite as easy be proved, a man could break open his neighbour's desk, or debauch his wife, without knowing it, as that he should make use of profane and blasphemous language, without being conscious of it.

But in the name of wonder, why is the apology that he means no harm, confined to the swearer? Why not extend the benefit of so happy a discovery to the habitual slanderer, liar, drunkard, and so forth? Nay, Gentlemen, it would be difficult to adduce any good reason, why the thief too should not be

* Lord Thurlow. See the *British and Irish Characters* for 1798.

allowed to come in for his share of it ; especially an old thief, who had destroyed all sense of shame and remorse, by the frequent repetition of his crimes. For then he would bring himself precisely into the situation of the offender who thinks no harm.

I dismiss the subject with the following reflections.—It is deeply to be deplored, that so many persons of influence and fashion among us, are addicted to this vice. Vain are all hopes of a reform, while this is the case. Their pernicious example, like a torrent descending from some precipice, spreads desolation and ruin through our land. What pity is it, that the noble motives of obedience to God, and regard to man, are inadequate restraints on a crime which does them no good—but, alas ! is the source of incalculable mischief to their fellow creatures.

UPON DRUNKENNESS.

[DELIVERED BEFORE THE GRAND JURY OF
LUZENNE COUNTY, APRIL, 1801.]

Gentlemen of the Grand Jury,

HAVING prescribed to myself the the task of explaining the act for the prevention of vice and immorality, with a view to recommend obedience to *every* part of it, as the surest means of preserving the liberty and happiness of our country ; and having in former addresses to Grand Juries, gone through the *first* and *second* sections, I now proceed to make some observations on the *third*, which is expressed in the following terms :

“ *And be it further enacted,* That if any person shall intoxicate him or herself by excessive drinking of spirituous, vinous, or *other strong liquors*, and shall be convicted thereof,

he or she shall forfeit and pay the sum of sixty-seven cents, for every such offence—or, if such person shall refuse or neglect to satisfy the said forfeiture, or goods and chattles cannot be found whereof to levy the same by distress, he or she shall be committed to the house of correction, of the proper county, not exceeding twenty-four hours, *there* to be fed on bread and water only, and to be kept at hard labour.

Intoxication is a term of such familiar use, and instances of it are so frequently to be seen, that it may be deemed unnecessary to define it. It is an expression of very vague and indefinite meaning ; but in our law-books, it is *always* represented as an artificial and voluntary madness, the effect of vicious indulgence ; and therefore affording not the slightest palliation for any violation of the laws of the land. Being the author himself of his *own* insanity, he is called *voluntarious demon*, a voluntary madman, and having committed *one* crime, he shall not be allowed to urge it as a plea to justify another. In such abhorrence is this voluntary renunciation of reason held by the laws of our country, and in ordi

more effectually to discountenance it; ~~tha~~ even a bond executed during this disordered state of mind, is deemed obligatory ; unless it appear, the drunkenness was the effect of management and contrivance in the *person* for whose *use* the bond is given.

Like every *other* vice, it may be committed in a less, or greater degree, and under circumstances of less or greater aggravation. Viewed merely in the light of an offence against the *laws* of the land, it is discriminated from all *others* by one circumstance—namely, that there seems to be only a certain *degree* of it, that is punishable. Every *degree* of felony, it is well known, is punishable. So is every degree of murder, robbery and adultery. But unless the offence of intoxication, rises to a *certain* height, and passes *certain* bounds, however obvious it may be that the party has deviated from the strict rules of temperance and propriety, yet he is not amenable at the bar of an earthly tribunal. The true legal notion of intoxication implies such an *excessive* drinking (to use the words of the law on this subject) as to disorder the reason and understanding, and which

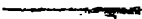

is evidenced by *speech or behaviour*—nor will a less degree of it authorise a conviction under our law, however indecent it may be, or incompatible with a prudential regard to health, or the dictates of Christian morality. If it could be supposed the laws were *otherwise*, and that a degree of intoxication, *less* than that which produces a species of mental absurdity and disorder, was comprehended in the act of the legislature, it might be the means of proscribing innocent mirth and cheerfulness. The penalty of the law might be inflicted where nothing else could be discovered but the effusions of joy and festivity. A distinction of this kind, as to the *degree* of intoxication, in the light of an offence against *human laws*, appears to be wise and reasonable ; especially when we consider the habits and manners of the present day. While it exposes brutal excess to the just correction of the law, it leaves hilarity and good-humour to their full enjoyment.

For very good reasons, all civilised countries have agreed to punish drunkenness, as a crime against social order, and the public

good. I believe it may be asserted with truth, that from this source originate almost *all* the enormities, that produce distress in private families, and the most destructive outrages on the public peace. It is this vice, that makes so many helpless widows, and distressed orphans—that fills our streets with wandering beggars—that crowds the sheriffs' dockets with executions, and is productive of innumerable quarrels, assaults, batteries, riots and manslaughters. “Who hath woe? (says the wise man) who hath sorrow? who hath contentions? who hath babbling? who hath wounds without cause? They that *tarry long* at the wine, they that go to seek mixt wine.” I declare in this public manner, and with the most solemn regard to truth, that I do not recollect an instance, since my being concerned in the administration of justice, of a *single* person being put on his trial for *manslaughter*, which did not originate in drunkenness; and but *few* instances of trials for *murder*, where the crime did not spring from the same unhappy cause. A moment's consideration will be sufficient to convince you, Gentlemen, that the various breaches of the peace that are

daily brought before the courts, are all derived, in a greater or less degree, from this infamous and mischievous vice. It is impossible, therefore, to withhold our warmest approbation of a law, that has any tendency to check it. And indeed, when we coolly reflect upon its infinitely pernicious effects on the peace, order, and moral happiness of the world, it is natural to express our surprise, that governments have not gone further—laid the axe to the root of the evil, and exterminated it at once by a strong and vigorous arm.

It is an observation of Sir William Temple, that a multiplicity of taverns, is an evil inseparably attendant on republican governments. From which the inference does not *seem* forced or unnatural, that in proportion as they *abound*, the vice of drunkenness may be expected to prevail among the people. Pennsylvania, it is acknowledged on all hands, affords the most striking evidence to justify the observation of the philosophical patriot; and every day exhibits to our view, the most painful proofs that the consequences are such as might reasonably be apprehended. The legislature of the state have indeed candidly



mitted the inference from their *number*, to be perfectly correct, by stating, as they do in express terms, in the 11th section of the law, now under consideration, "That a great abundance of taverns and public houses, for vending spirituous liquors, has been found to promote habits of idleness and debauchery." These, we are taught by daily experience, are the rank soil in which the vice of drunkenness shoots up with such fatal luxuriance. These are the polluted fountains that send forth constant streams to corrupt and demoralise our people. Here our youth, the growing hopes of their country, are initiated in all the mysteries of iniquity, and lay the foundation of those destructive habits, that never forsake them. Here they are taught to practise the dialect of infernal spirits, and to rival the very demons, in the use of profane and blasphemous expressions.

Although taverns are, unquestionably, fruitful sources of vice, yet I am not so visionary a law-giver as to suppose it practicable in government, to have them conducted with the same regularity and decorum that prevail in private families. This, I well know, is im-

possible. At the same time, it affords me much satisfaction to say, that *some* of them are kept in the most decent and unexceptionable manner the nature of things will admit, considering the depravity and prodigious licentiousness of modern manners. There are others, however, who abuse the trust reposed in them by government ; and instead of keeping houses of refreshment for the traveller, and for the accommodation of persons meeting on business, which was the design of their institution, convert them into places of frolic, drinking and gambling, on all hours of the night, and *every* day of the week, Sunday itself not excepted. It is much to be regretted taverns of this description cannot be broken up. The laws on this subject are sufficiently strict, and I do not see how they can, with propriety, be rendered more so. Heavy penalties are imposed on those who keep disorderly houses, and in any shape countenance horse-racing, cock-fighting, and any kind of gaming whatever. Nothing is wanting, but a faithful execution of these laws ; which would soon operate an entire reformation

But, alas ! Gentlemen, the rage of dissipation is such, among all ages and classes, as to render any hope of this sort, baseless as a dream, or the fleeting shadow.

But if abuses in taverns cannot be corrected ; if they have become so inveterate as to become incapable of cure ; perhaps something may be done towards lessening the evil, by drying up, in some degree, its sources. This, Gentlemen, can only be done by laying our young people under greater restraints.

It has long been my opinion, that the relaxation of *domestic* authority, is one of the most alarming symptoms both of the degeneracy, and dangerous situation of our country. Parents and masters seem to have abandoned all control over those that Providence has placed under their care and guardianship. They seem totally indifferent both as to the *company* and *hours* they keep, and the *places* they frequent. The reins being thus thrown loose upon bad propensities, it is no wonder they take the shortest road to destruction, and hasten to taverns. Depend upon it, Gentlemen, it is a serious truth, though not often

heard in courts of justice, that we are responsible to heaven, not only for our *own* actions, but in *some* degree, for the actions of those who may be influenced by *our* example or authority. If we permit our children to *do* as they please—to frequent *what* company they please—and to keep what *hours* they please, nothing can be expected, but that our country, ere long, will swarm with a race of beings, that neither fear God, nor regard man. Such are the incalculable advantages of discipline over young persons, that I have often thought (religion and a future state out of the question) it would be the height of wisdom, to compel them to keep the most exact hours, to oblige them to a regular attendance on the public institutions of Christianity, to confine them to their *own* homes on Sunday, at least *some* portion of the day, and in various other instances of a similar nature, to restrain them: if it were only to impress them with habits of *early* subordination to private authority, in order to lay a proper foundation of obedience to *public* government and the laws of the land.—Certainly much depends upon the influence of parents and

masters, to remedy the evils arising from the multiplicity of our taverns. It is in their *power* to restrain their children and servants, and they are bound to do it, by the strongest considerations that can actuate the human breast. A regard to their own peace and repose *beyond* the grave, and the future happiness of their country, equally require it at their hands.

There is no position more uncontrovertible, and sanctioned by more uniform experience, than that a republican government can be supported on no *other* foundation than the virtue of the people. And it is equally clear, *this* virtue must originate in *domestic* education, in obedience to *parental* authority, and in a love of order. The Jewish nation taught the ten commandments to their children at so early an age, that they were the first sentences they were able to lisp; and every body knows the care and pains employed by the wisdom of old Rome, in order to impress a knowledge of the twelve tables on their youths. If I was called upon to point out a particular law of the state of Pennsylvania, as entitled to the superior attention of its inhabi-

tants, it should be *The act for the prevention of vice and immorality*. There is no positive law of the land, that deserves to be inculcated, with half the solicitude, on the rising generation. It deserves a conspicuous place in every chamber, in every house. Parents and masters should teach it diligently to all their domestics. They should “talk of it when they sit in the house, when they walk by the way, when they lie down, and when they rise up.

Let politicians speculate, and philosophers dogmatise on forms of government, as long as they please, it remains an eternal truth, that the liberties of a country can be preserved only by the practice of religion and morality. Here, and here only, is the solid rock, on which human glory and felicity can be permanently erected. Hence it is, that the enlightened law-givers of every nation, whose views were *limited* by the *interest* and *happiness* of the people, have made the dissemination of the principles of sobriety, industry and virtue, the object of unceasing study and labour; and particularly among the rising generation. Animated, Gentlemen, by their

great example, it is *our* duty as magistrates and rulers, on a *smaller* scale, to inculcate, both in our *official* stations, and by our *personal* conduct, uniform and constant obedience to *every* law of our country. This is the only way, and it is certainly a very efficacious one, by which we can support the precepts of order and wisdom, and be essentially useful to society. The judicial trust reposed in us, is a very solemn one; deposited in our hands for the benefit of our fellow-creatures, and for which we are responsible to God, and our own consciences.

I am, however, perfectly aware, Gentlemen, all this passes with *some* persons for hypocrisy, enthusiasm, and mere cant. But who, I ask, are they that thus calumniate us? They are the profane, they are the vicious, they are the very profligate of the earth:—Men, whose censures, in my opinion, deserve no more notice or regard, than the clamours of a gang of highwaymen, against law, order and government. Be not deceived, Gentlemen; every *immoral* man, and every *other* man, that habitually breaks the laws of the *land*, is an *enemy* to his country.

Whatever may be the hypocritical language of his lips, his *actions* speak louder than his words, and incontestibly show the hostility of his heart. And from the *infectious* nature of *bad* example, he is often a greater curse and injury to the *moral* interests of society, than the highway robber himself.

If it be cant and enthusiasm in *magistrates* to support this law, with equal propriety may the reflection be extended to the legislative body that passed it : unless it should be pretended, that judges and justices have a right to determine what laws are founded in *cant*, and what are not ; and to execute them or not, at their pleasure. A position too preposterous to be maintained by any body, but a downright idiot. If indeed it be enthusiasm to discountenance those vices, that threaten to deluge our country with ruin—if it be enthusiasm to labour with zeal and ardour in the cause of virtue and our country's good—if it be enthusiasm to discharge an official obligation with fidelity and honor—if it be enthusiasm to enforce obedience to those laws, which are the *foundation, pillar and prop* of all *other* laws, and of government itself; it

must be confessed, Gentlemen, it is that *kind* of enthusiasm, which *ought to be* the pride and ornament of every *judicial* character in the state.

But where is the *hypocrisy* of executing this law? Judges and justices are bound to execute *all* laws, one as much as another; and as they lay no claim to perfection, more than *other* men, it may possibly happen, they may be obliged to condemn in other persons, a *vice* from which they are not themselves wholly exempted. In doing this, it is impossible to discover the least trace of *hypocrisy*; though it is natural to think, the awkwardness of the situation, and inconsistency of conduct, might be sufficient to cover such magistrates with blushes and confusion.

But if the character of enthusiasm and *hypocrisy* cannot be fairly imputed to those who execute this law, torrents of odium and defamation may be let loose upon them. By some persons their conduct will be esteemed an unpardonable outrage on the rights of gentlemen—by others, the effect of a low and churlish disposition—and by others, the effervescence of a weak and superstitious mind.

It must indeed be acknowledged to be extremely unpopular, to attack the vices of those who are distinguished by wealth and influence, and especially in a government constituted like ours. Should you therefore, Gentlemen, engage in the work of supporting this most valuable and excellent law, I honestly warn you beforehand, that you must expect to run the gauntlet. You must expect to be scourged with the sneers of the wise, the proud man's contumely, the contempt of the rich, and the endless impertinence of fools and sycophants. But all this, and a thousand times more, you will be able to despise, if you are possessed of the spirit of your station, and the fortitude of a man. In the estimation of the wise and good, they have often been overlooked, as the *dust* in the balance ; and though they may perhaps occasion a momentary uneasiness, yet *that* should never be put in competition with the just reproaches of a guilty mind. Cold indeed, and coward must be the heart, and depraved the understanding, that can prefer human applause, to the exquisite satisfaction of an approving con-

science, and the final reward, that awaits the performance of virtuous actions, and the faithful discharge of duty.

UPON GAMING.

[DELIVERED BEFORE THE GRAND JURY OF BERKS
COUNTY, JANUARY, 1802.]

Gentlemen of the Grand Jury,

THE practice of gaming, with the long train of evils, generally resulting from it, have been pointed out and deplored, not more frequently by the Divine and the Moral-ist, than by the Statesman and the Patriot. Whether the love of this pernicious amusement, be deeply implanted in human nature, as some have supposed ; or be altogether the effect of habit, as others believe, it is certain, when once it gets possession of the mind, there is no vice that tyrannises over its miserable votaries, with more uncontrolled sway. Such is the infatuation which often attends it, that innumerable instances might be mentioned, of persons, who, by venturing their all upon this ocean of chances, have been reduc-

ed from opulence, to poverty and wretchedness, 'in the short space of a few minutes. And though such desperate scenes of guilt and folly do not often occur in *our* country, yet as all vice is in its nature progressive, and we are making rapid advances in every kind of luxury, there is reason to fear, we shall, ere long, rival our European brethren in this, as well as in every other mode of criminal dissipation. There is however, a species of gaming conducted on a lower scale, which abounds extremely among us—is chiefly carried on at taverns, and is practised by persons of all descriptions, high and low, rich and poor, old and young. It is to this scandalous violation of the laws of the land, this open insult upon government, I mean at this time to turn your attention ; as to an evil of *growing* magnitude, which threatens our country with very calamitous effects.

It would consume too much time, and is not my intention, to go into a full discussion of the innumerable evils flowing to society from the practice of gaming. They are so obvious, as to present themselves to the understanding of the most unreflecting person.

Let it suffice to observe, generally, that as it *springs* chiefly from idleness, the fruitful, the inexhaustible source of almost every vice, so it has a natural tendency to *produce* idleness. It operates as cause and effect, and is at once both parent and offspring. When the heart is once thoroughly possessed of this passion, every thing is sacrificed to its gratification. In the mad pursuit, health and constitution are gradually destroyed by irregular hours, and disorderly conduct. Sleepless nights, corroding passions, and a neglect of business, accompanied with the intempered use of ardent spirits, soon plunge both the gamester and his family, into one common ruin.*—

* The pernicious consequences of play, have been frequently described in the strongest terms, and illustrated by the most striking examples. Seldom however, have they been represented on so large a scale, as in the late account of the fate of *a great body of gamesters* at Hamburgh, which an intelligent spectator has published in a German Gazette, as the result of his attentive examination, during a period of two years. Of *six hundred individuals*, who were in the habit of frequenting gaming-houses, he states, that *nearly one half* not only lost considerable sums, but were finally stripped of all means of

It would be a fortunate circumstance, if the detail of mischiefs ended in the destruction of the *constitution* and *temporal* concerns of the gambler. But the case is far otherwise. The fatal effects of gaming extend beyond the grave. The *mind* is deeply contaminated; and sentiments, the most hostile to its *final* peace and happiness, are harboured and indulged. The gambler is frequently tortured with paroxysms of rage against heaven; the effect of raised expectation being suddenly dashed at a critical moment. Meanwhile his countenance is almost as much distorted with agony, as that of a person suffering on the rack. From which we may form a pretty correct idea, what must be the sensations that are tearing his heart; and how infinitely injurious their effect must be, on the temper and subsistence, and ended their days by self-murder. Of the rest, not less than an hundred, finished their career, by becoming swindlers or robbers on the highway. The remnant of this unfortunate group perished; some by apoplexy; but the greater part by chagrin and despair. He mentions, that during the whole space of two years, to which his journal is confined, he did not see one of these six hundred gamesters, with a single new dress.

See Rel's Gazette of February 2, 1802.

disposition of the soul. In short, I must be permitted to remark, however displeasing the observation may be, that a gaming-table generally exhibits a scene of great immorality, where the most criminal passions rage uncontrolled, and dreadful oaths and imprecations burst from almost every tongue. That this is not a false, or exaggerate description, *candor* itself must acknowledge—And, I *think*, it must at the same time be as readily acknowledged, to be the duty of every *friend* of virtue and his country, to abstain from an amusement pregnant with the strongest temptations to avarice, fraud, lying, cursing, swearing, contention, fretfulness, and every emotion that can disorder the heart. Even the stern philosopher, who is supposed to consult *nothing* so much as the tranquility of his own *bosom*, would do well to avoid it; as dangerous, if not destructive to that serene and unruffled enjoyment of mind, which he affects supremely to pursue. He who voluntarily and unnecessarily places himself in a situation, where his innocence may be lost, or his feelings become the sport of blind imperious chance, acts a part, neither compatible with

the character of sound wisdom, or virtuous circumspection. The ideas of the great philosopher, Mr. Locke, should not, therefore, be hastily reprobated; who, after examining this subject with his usual acuteness, declares it to be *his opinion*, that in order to avoid *all* temptation, the best way is, never to learn to play a single card.

Impressed, no doubt, by these, or other considerations still more forcible, the legislature of our state have endeavoured to abolish every species of gaming. The axe has been laid to the root of the evil by the law of April, 1794, entitled, “An Act for the Prevention of Vice and Immorality, and of unlawful Gaming, and to restrain disorderly Sports and Dissipations;” which has rendered it completely, and to all intents and purposes, unlawful in Pennsylvania. It will not be improper to lay before you, a brief sketch of the law on this subject.

The fifth section forbids fighting cocks for money, or *other* valuable consideration, under the penalty of three dollars; and as it is notorious, that nothing so much encourages this inhuman and brutal diversion, as laying

bets, and that cock-fighting is often the result of a speculating gambling temper, any wager on the *event* is prohibited under a like penalty. Playing at cards, dice, billiards, bowls, shuffle-board, bullets, and any game of address or hazard for money, or other valuable consideration, is also forbid, under a penalty of three dollars. With respect to playing bullets on the *highway*, the act forbids it, under the like penalty, whether there be any bet laid or not. The remedy in this case, is what the law calls cumulative or additional. For, as playing bullets in the highway, obstructs the road and incommodes passengers and travellers, it is an offence *independent* of the act, for which the parties are liable to indictment and fine at common law. A penalty of twenty dollars is also annexed to the offence of horse-racing, for money or other valuable consideration.

The sixth section, after declaring that the various descriptions of gaming, mentioned in the act, are frequently promoted and held at public houses, or near them, imposes a penalty of fourteen dollars, and a loss of licence for *one* year, upon every tavern-keeper, who shall

promote any thing of the kind, or shall furnish *drink* to persons so employed, or shall allow any sort of gaming for money, or *other* valuable consideration, in his dwelling-house, or in any out-house belonging to him. In case of a *second* offence, he is subject to a fine of twenty-eight dollars, and is rendered for ever incapable of keeping tavern in the state of Pennsylvania.

The seventh section, still keeping in view *taverns* as the grand theatre of gaming, forbids billiard tables; E O tables, or *other* devices being kept in public houses, for the purpose of playing for money—on pain of forfeiting the instrument of such play, and the sum of twenty-six dollars.

By the subsequent provisions of this law, a person *losing* money, or other valuable thing, at any of the games specified in the act, shall *not* be obliged to pay, or make good the same, or to discharge any security given therefor. And even if the loser has *actually* paid the money, or delivered the article to the winner, he may sue within *ten* days, and recover the same back again.


This, Gentlemen, is a brief but correct

summary of our laws upon the subject of gaming; made for the best purposes, and with the best intentions. And thus anxiously and benevolently have the legislature of our country, endeavoured to extirpate the evil, root and branch. You will, however, perceive, they have not prohibited playing merely for *amusement* at any of the games specified;—not even horse-racing, where *amusement* is the only object. It is only when money, or any thing of value is played for, that it is absolutely forbidden.

And now, Gentlemen, let us pause a few moments, and seriously ask ourselves this *single* question—Is it our duty, as good citizens, to yield obedience to *this* law of our country, or is it not?

Many persons I well know, are ready at once to exclaim, the law is foolish and absurd, and we are resolved to treat it, as such a law deserves to be treated, with contempt and neglect.

Waving for the present any enquiry in the merits or propriety of the law, we proceed to observe, that conduct of *this* sort, strikes at the very root of government; in as much a



it makes our obedience depend, not upon the law itself, and its binding force upon *constitutional* principles, but on the *opinion* a man may form of its *wisdom* or *expediency*—which in effect is to assert, that *private* judgment shall defeat *public* authority, should they happen to clash with each other. . The legislature have *decided* the point, that gaming is *injurious* to the social and moral interests of our country ; and to this decision every citizen is bound respectfully to submit, unless he means to set himself up *above* the government, in all those cases where they differ in opinion. Laws, in their very nature, are intended to operate as restraints upon the *will* and *inclination*. But this can never happen, if certain propensities and attachments are admitted to be good reasons, for not yielding obedience to them. In fact, this would set mankind *free* from *all* law whatever. The gambler reprobates the law against gaming, because it interferes with his habits and his passions, and insists there is no harm in it. . All he asks is, that he may be indulged in disobedience to the law, in this *single* point, and he is willing to behave as a good citizen in every other res-


pect. Why, Gentlemen, this is the very language of the thief and the highway-man.— They, like the gambler, only plead an exemption in behalf of *that* vice, to which they have the strongest attachment, and affords them the greatest pleasure. It is well known, the common swearer, the adulterer, the slanderer, and wicked of every other class and description, shelter themselves behind the same excuse, viz. that their vices are harmless, and they have a particular fondness for them.

To reconcile us further, to obedience to *this* law, it should be remembered, that it is not the imperious mandate of an arbitrary monarch, or an edict of the dark age of ignorance and superstition—but the *law* of a *free* people, passed by one of the most enlightened governments upon earth—a *law* flowing from the deliberate act of our *own* *representatives*, selected from every part of the state, for the sole purpose of legislation. In our republican governments, *he* only is a good citizen, who obeys *all* the laws—those he *dislikes*, as well as those that meet his approbation. Upon the ground of *obedience*, he makes no di

tion. Convinced that even the best government requires a constant sacrifice of the will of *one* part of society, to that of the *other*, he is ready on *all* occasions to take up his cross and follow his country. Obedience indeed is a very easy thing, when it falls in with our particular habits and views, and in such cases there is no danger the law will prove a "stone of stumbling, and rock of offence."

But what sort of a citizen is *that* man, who obeys only those laws, which please his humour or his taste, and *deliberately* violates those he disapproves? I will venture boldly to assert, a person of *this* description, has not a single drop of federal or republican blood in his veins, or benevolence in his heart—did he possess a particle of either, he would cheerfully acquiesce in *every* law, that has any tendency to promote the general good. If I were asked, what is the *first* part of the duty of a good citizen? I would say *obedience*. If I were asked, what is the *second* part? I would say *obedience*. If I were asked, what is the *third* part? I would reply *obedience*. In short, it is the very essence and consummation of the character of a good citizen in a re-

publican government. We are told, that in the school of Pythagoras, his *autos ephe*, that is, his bare opinion, was deemed such decisive evidence of truth, as to adjust every controversy that arose among his captious and disputing pupils. Such precisely should be the profound respect paid to the laws in our government. "It is the LAW ; the legislature have said so"—should silence every objection, stop every mouth, and restrain every hand and foot. Has the LAW, for example, said, Thou shalt not take the name of the LORD THY GOD in vain, or swear by any *other* name or thing ? he that transgresses it, is neither a good *citizen*, nor a good *man*. Has the LAW said, Thou shalt do no unnecessary work, nor practise any *sport* or *diversion* on Sunday ? He that offends in those instances, against both heaven and earth, is a bad *citizen*, and a bad *man*. I speak plainly, Gentlemen. In defending the laws of God, and my country, I am not to be deterred by the censures of any man, or set of men, from using any language, or freedom of speech, not inconsistent with truth and decency. I there repeat, that a person, who breaks the law



GOD and MAN, can have no better pretensions to the character of a virtuous *good citizen*, than the felonious robber on the highway. They *both* submit to the laws, in general ; and the highway-man, like the gambler, only breaks them, where they oppose his *favorite* pursuit, which is just the case, with every *other* immoral man. They are *both* bad citizens, though there may be a difference in the nature and degree of their crimes.

In estimating the character of a man as a *citizen*, it is his *conduct* only that is decisive evidence for or against him. Professions are of no sort of consequence. What would it signify for a person boldly to assert, he was an honest man, while he was notoriously addicted to lying and stealing ; or to take an oath of fidelity to government, while he was in open arms against it. Equally absurd and ridiculous is it, to *talk* of patriots, and good citizens, where the life and practice are in *any respect* at war with the laws of our country ; and they are treated with insolence and contempt, for no other reason, but because they happen *not* to accord with the *selfish*

views of one man, or the *vicious* and *abandoned* inclinations of another.

Both in religion and patriotism, *obedience* constitutes the unerring *touchstone* of sincerity. It is the principle that tries the *spirit* of a man, and draws an infallible line of distinction between the hypocritical pretender, on the one hand, and the genuine friend of virtue, religion, and his country, on the other.

Upon the whole, Gentlemen, obedience was made for *man* by his Creator, and *man* was made for obedience. It is the influence of this principle, diffused through all the works of God, that supports the universe, and maintains perfect harmony in his boundless dominions. It was disobedience hurled the apostate angels from heaven ; and disobedience to his law, is at this moment, the cause of all the vice, war, and confusion, that agitate and convulse this unhappy globe, on which it is our lot to reside. *Order* is heaven's *first* law—and should be the first law of earth.—Universal obedience to his infinitely holy and unerring laws, is necessarily productive of universal order—and *universal order* is necessarily productive of universal happiness.

MAN—THE SUBJECT OF MORAL AND SOCIAL OBLIGATION.

[BEING PART OF A CHARGE DELIVERED TO THE
GRAND JURY OF BERKS COUNTY, JAN. 6, 1800.]

Gentlemen of the Grand Jury,

THERE is no knowledge of more importance, than that which teaches us to vindicate the ways of God to man. But in order to form correct notions on this subject, it should be always remembered, that, though God be the universal Parent of mankind, it is not less true, that he is their moral Governor, and Supreme Magistrate. Considered in the light of a wise and just Sovereign, exercising dominion over intelligent beings, he cannot act otherwise, than dispense rewards and punishments according to the different characters of those who are the subjects of his moral government. It is undoubtedly for want of considering the Deity in this most serious and important light, as the Supreme Magistrate and Ruler over his

creatures, that men so frequently violate his laws. If they were duly impressed with an authoritative sense of his right to prescribe rules of action to creatures, formed by his power, and depending on his goodness, they would yield the most implicit subjection to his commands. God as a *Sovereign*; has a right to expect perfect obedience to *all* his laws, and to punish every violation of them. True it is indeed, that in their present lapsed and degenerate state, mankind are incapable * of

* Mankind labour under no natural inability, in their lapsed state, to obey the perfect law of nature, though they are dead in trespasses and sins. The moral law, founded in "the reason and fitness of things," as the Judge observes, page 12, requires only to love the Lord our God with all our strength—the natural ability we now have in our weak and lapsed state—for it is a maxim in morals, in which the scriptures agree, *that natural inability always destroys moral obligation*. "It is accepted according to that a man hath, and not according to that he hath not."

There were obstacles in the way of the salvation of men which they have not natural ability to remove—but these are removed by the atonement, and now he that performs sincere, that is, holy obedience, is accepted "through the vicarious satisfaction and complete obedience of him who hath fulfilled all righteousness in our stead, and laid down his life for the whole human race."

N. Y. Editor.

yielding that *sinless* obedience, which the *perfect law* of nature requires from every rational and intelligent being, to the will of its Creator. But this *moral* impotence is happily removed by the divine scheme of revelation, whereby God has graciously so ordered it, that sincere, though imperfect obedience will be accepted, through the vicarious satisfaction, and complete obedience of Him, who hath *fulfilled all righteousness* in our stead, and laid down his life for the human race. From this relation of obedience on the one hand, and the right of governing on the other, results that system of duty which fully evinces, that man is the subject of moral obligation, in every light in which he can be contemplated. If you view him in the light of an *individual*, he is under the strongest possible obligation as a dependant being, to love and revere the Great Author of his existence, and to make his sovereign will the supreme rule of every action. If you view him again, in his social capacity, you perceive a train of the most important duties resulting from his station, which are called social duties; because the violation of them is attended with injury

to our fellow-creatures. Writers on the subject of ethicks, have therefore divided moral obligation, into duties which respect man as an individual, and duties which respect him as a member of society: a division which is highly proper, because it includes every thing—our duty to God, to ourselves, and to our fellow-creatures. A man may transgress the laws of Heaven, and the duty he owes himself, without violating the law of social obligation. Thus secret blasphemy, or a private act of drunkenness, or any other hidden vice, can be no breach of *human laws*; but are clearly violations of the divine law, and a transgression of our duty as rational beings. Hence the vices of an *individual as such*, can never become the objects of legal cognizance. To his Creator and himself—To God and his own conscience, man is alone responsible for all his secret offences. Nor have human tribunals any right to arraign his actions, unless they are exhibited to the *view* of others. It is this circumstance of publicity alone, that gives them a criminal complexion in the eye of human laws, and is the true reason why persons thus guilty become answerable at the

bar of courts and juries. With man, therefore, in his social capacity, vested with certain rights, and bound to the performance of certain relative duties, you are now to be employed as grand-jurymen, &c. &c.

A CIRCULAR LETTER

ADDRESSED TO THE CLERGY IN READING,
MARCH, 1794.

Sir,

ALTHOUGH learning and science are sufficiently encouraged in Pennsylvania, yet the *government* has never made the improvement of the heart, and the morals of youth, a particular object of attention. Like *other* governments, they have left to parents, and to the *public teachers* of our holy religion, the duty of instructing the rising generation, in the first principles of Christianity, and moral rectitude. Our laws therefore do not interfere in the business of education, any further, than by prohibiting a variety of overt acts, which are also forbidden by religion, and are, at the same time, of evil example, and immoral tendency. And these, like other legislative prohibitions, extend to the old, a

well as to the young. Thus our law, which forbids swearing in common conversation, includes both old and young. The same law, which says, Thou shalt not drink or tipple in taverns on the Sabbath day, extends equally to *all* persons. In the same manner, our law, when it says, Thou shalt not make use of, or practise any game, sport, or diversion on the Sabbath, comprehends persons of *all* descriptions, the old, the middle aged, and the young. It is in this way, our laws have protected the *general interests* of religion and morality, without explicitly specifying any age, rank, or class in society.

It is universally acknowledged, that the most permanent impressions are made upon the mind, in the early periods of life. The habits that are *then* acquired, are seldom or ever changed, and generally constitute the *character* of the man. What can be expected, where children are suffered to grow up, in the daily violation of the laws of both God and man, unadvised and unrestrained by their parents and masters, but a continuance in the same vicious course, after they have attained to maturity! The wise man

tells us, "train up a child in the way he should walk, and when *old*, he will not depart from it." The truth is, the *heart* is a rank soil, producing spontaneously, and with strong luxuriance, noxious weeds of every kind ;—hence the difficulty that attends this species of moral husbandry ; for the finest shoots will quickly be choaked by vicious inclinations, and the influence of bad example, unless cultivated by the unceasing hand of care and industry.

These and other reflections on the subject, have induced us to address you at this time, and to suggest the idea of using our *joint* endeavours—you as a minister of the gospel, and we as Christian magistrates—to check such open irregularities of the youth in this town, as are transgressions both of the laws of *God* and *man*. We, therefore, Sir, now call upon you, to co-operate with us in our efforts, to restrain the young people in Reading, from the breach of the Sabbath. It is with concern we mention, that our streets exhibit on *that* day, crouds of boys engaged at marbles, pitch - penny, and other sports and plays

while our ears are frequently wounded, with dreadful oaths and curses. It is surely a very singular fact, that children who can scarcely otherwise utter a syllable in *English*, are yet perfectly skilled in all the variety of impious and blasphemous expressions which *that* language can afford. In our sincere apprehension, there is not so much tumult and uproar—so much gross profanity, and indecent violation of the Sabbath, exhibited in all the streets of Philadelphia, as in the small borough of Reading ; a circumstance that reflects equal discredit upon the police of our town, and the religious character of its inhabitants. We have determined therefore, that we will no longer remain indifferent spectators of such conduct ; and have come to a resolution, to go as far as the *laws* will support us, in putting a stop to it. For this purpose, we shall order the constables to patrol the streets on Sundays (to begin on Sunday the 30th day of this month) with authority to apprehend *all* persons, that may be found guilty in the premises, that they may be dealt with as the law requires.

We do assure you, Sir, we wish not to give

offence to any body. Nor is it our desire to see any person punished, much less the young. It is far more agreeable to us, to *prevent* the commission of crimes, than to punish them. You will therefore observe, we have fixed upon so distant a day, as Sunday the 30th of the month, for the execution of the law, in hopes that your notifying your congregation of it (which we request you will do) joined to your pious exhortations to parents and masters, to restrain their children and apprentices, may be the means of producing the intended reformation, without obliging us to have recourse to the harsher correction of the law.

If we sustained no *other* relation to society, than merely that of public magistrates, yet we should rejoice to see the doctrines and principles of Christianity universally prevail; because we are persuaded, they are the only *solid* ground of all *morality*, and consequently of good government. Righteousness exalts a nation; but sin is a reproach to any people, and leads not less certainly to *national* ruin and destruction, than to *individual* misery, both here and hereafter.

We are,

Sir, &c. &c.

SENTENCE OF DEATH,

PASSED ON BENJAMIN BAILY, IN NOV. 1797,

FOR THE MURDER OF JOST VOLHAFER.

YOU have had a fair and impartial trial. The witnesses have been examined in your presence. You selected your own jury, and have been ably and zealously defended by your counsel. When we see a man, under such circumstances, sent out of the world, in the administration of justice, it must be *guilt* alone, that bears him down. The evidence on the trial, made so strong an impression, as to combine in *one* sentiment against you, the court, the jury, and the bystanders.

As you have but a short time to live in *this* world ; and there is no hope of pardon, from any *earthly* hand, let me urge you to seek a pardon from *above*.

It is the consolation of the wretched, and

the guilty, that God is infinitely merciful. But it should be remembered, that he is merciful, not to him who continues in the *practice* of sin, but to him *only* who repents, and utterly forsakes it.

Be assured, the question is not, Whether you must *repent* of your sins? That is certain, sooner or later. But the question is, Whether it is not *better* to repent in *this* world, where your repentance may be attended with the *happiest* effects, than to repent *hereafter*, when it will answer no *other* end, but to increase your torments?

You have been guilty of murder in its most horrid form—deliberate—cruel—and remorseless. You have imbrued your hands in innocent blood, for the sake of a little money. And though the water of the mountain hath washed the stain from your garments, and from your hands, yet oceans of water can never wash away the stain of guilt from your conscience. Nothing can possibly do this, but the efficacious, and all-cleansing blood of a SAVIOUR. To *this* blood you must apply, as the only remedy for a soul polluted with sin.

Be advised, therefore, immediately—*anxiously*—and *solicitously*—to set about the great duty of repentance, and working out your salvation with fear and trembling.

You have not a moment to lose—*exert* yourself—and if you have never prayed *before*, strive to pray *now* for the first time ; for prayer is the very *breath* of heaven—and *without* it, there is no religion—no repentance—no pardon on earth.

Weep over your sins—and if you cannot so much as look up to heaven, perhaps with downcast eyes, smiting your breast, you may *both* feel and express the fervent wish of the publican.

Weep, I say, over the blood of Folhafer ; for if you go out of the world, with his blood in your conscience, it will wring your soul with never-ending agonies and horror.

You die an early victim to public justice, and are cut off in the morning of your days. But to *him* who is pardoned by his God, it is of no importance, whether his days be few, or many. Nor is any life sufficiently long, though it be extended to a thousand years, which is spent in scenes of guilt and folly, and

at the close of which, the unhappy man is found unreconciled to his God.

To conclude. Let me earnestly advise and beseech you, to send for some pious clergyman, and to converse freely with him, on your *present* wretched situation, and more alarming *prospects*. And who knows, but through the blessing of God on your endeavours, you may be presented without spot or blemish, before the throne of the Lamb, and shine hereafter, among the spirits of just men made perfect, in the realms of ineffable glory and felicity.

The sentence which the law prescribes, and which *this* court awards, is this—&c. &c.

ON DUELLING.

[DELIVERED AT READING, BEFORE THE GRAND
JURY OF BERKS COUNTY, NOV. 1802.]

Gentlemen of the Grand Jury,

IT is the unerring declaration of holy writ, that "God made man upright, but they have sought out many inventions"* Ever since the disobedience and apostacy of our first parents, his imagination has been unremittingly on the stretch, to find out some *new* scheme of gratifying his passions, at the expence of moral duty; and so successful have been his efforts in exploring the unhallowed scenes of guilt and folly, that it may be fairly questioned, whether at *this* period of the world, any possible mode of sinning against his Creator, hath been left undiscovered. All the duties of the decalogue, that rule of everlasting righteousness, have been

Eccles. vii. 29.

transgressed in so many thousand shapes, that it would seem to exceed the compass of human sagacity to add a single vice to the black catalogue. Instead of obedience to the first and great commandment—supreme love to his Creator, the ruling passion of every perfect mind—daily experience evinces, that he loves every other object better. Instead of loving his neighbour as himself, the great precept of the second table, we see him continually violating the rule of eternal justice, of doing to others as he would wish they should do to him; and instead of extending the hand of benevolence to the relief of his fellow-creatures, we behold him too frequently extending the arm of destruction, at the merciless call of pride, revenge, avarice or ambition.—But among all the deviations from moral rectitude—among the innumerable ways of oppugning the laws of God, which the depraved ingenuity of man has invented, it hath been reserved for modern manners, to discover and to introduce, the most singular, the most extraordinary, and the most unaccountable, that ever disgraced a Christian country; I mean the custom of *DUELLING*.

It is not my design, Gentlemen, to give an historical account of the rise and progress of duelling—it would be at *this* time, altogether superfluous. It is sufficient for my present purpose to insist, that it is illegal—that it is immoral—that it is irrational—and that it is impious.

As murder, in contemplation of Law, essentially consists in deliberately killing a fellow-creature, it is obvious where death ensues in a duel, that it is, generally speaking, the most aggravated species of murder ; because it is accompanied with every circumstance of cool preparation, that a spirit of revenge can dictate. In such extreme abhorrence does our law justly hold this offence, that not only the principal, that is, he who *actually* kills the other, is guilty of murder, but his *second* also ; because he takes part with him, and by his *presence*, becomes a principal in the first degree. Nor is it any extenuation of the crime, that the person *killing*, was first struck by the *deceased*, or that he had *often* declined to meet him, and was at last prevailed upon to do it by importunity, or that he only intended to support his reputation, or that he meant only

to disarm his adversary. These, and all such frivolous excuses are of no avail, in any case where the fighting happens after such a lapse of time, that there is ground to believe, the violence of the passion had subsided. By the common law, barely sending a challenge, though no fighting ensue, is a misdemeanor punished by fine and imprisonment. More effectually, however, to discourage and check this vice, a special law of our state has provided, that the person *sending* a challenge shall forfeit two hundred and eighty dollars, or suffer twelve months imprisonment; and the person *accepting* it, one hundred and forty dollars, or suffer six months imprisonment. The person who *carries* a challenge, and he who consents to be a *second* in any intended duel, shall each forfeit one hundred and forty dollars, or suffer six months imprisonment. All the parties above-mentioned, who engage in this iniquitous transaction, forfeit also the right of citizenship for *seven* years.

But duelling is not only contrary to the laws of our country; it is repugnant also to every principle of moral obligation. The true notion of an immoral act, is where one free

agent does a voluntary injury to another, or to himself. Cheating a person out of his right, stealing his property, wounding the fame of our neighbours, swearing, blasphemy, drunkenness, adultery, and the like, are universally acknowledged to be immoral acts. A man may likewise be guilty of an immoral act towards himself, as by killing himself; or by disabling himself, so as to be incapable of discharging the business or occupations of life; of which Sir Edward Coke relates a very singular instance:—A sturdy young fellow, in order to have a pretence for begging, employed a person to cut off his left hand; for which the two rogues were both very properly indicted and fined.* In the perpetration of crimes, men are impelled by very different motives, varying according to the make of their minds, and the circumstances in which they happen to be placed. It should, however, be remembered, if the *motive* be criminal, the *act* must necessarily be immoral. Where then, I ask, is the difference, in a *moral* view, between the bloodthirsty highwayman, who murders for the sake of gold, and

* Inst. 127, a & b.

the duellist, who murders for the sake of revenge ? They both commit a crime of the greatest magnitude, but to gratify different propensities.—The robber wants money, and the duellist wants what *he calls* satisfaction ; and in order to attain their *ends*, they do not scruple to make use of *murder* as the *means*. For my own part, I cannot avoid thinking, that even a *Baily*, shooting and mangling the body of *Folhafer*,* to get possession of his money, is not an object of greater guilt and horror, than a duellist, deliberately glutting a spirit of revenge, in the blood of his fellow-creature.

In the next place, Gentlemen, duelling is irrational. This is a position, which I believe, no man in his senses will controvert. The decision of a quarrel between two persons, by the use of deadly weapons, has an air of folly and distraction, that no language can describe. Walking over red hot irons, is sport when compared with it, and certainly is not

* *Folhafer* was a pedler, murdered and robbed on the Cattawessy road, by Baily, for which he was executed in the county of Berks, a few years ago.

more ridiculous, as a test of truth and innocence. Upon this subject, it is difficult to be serious. You will, therefore, pardon me, when I observe, that to stake the merits of a personal quarrel, on the event of a *foot race* between the parties, would not be more stupidly absurd, than to rest it on the contingency of *shooting* at each other : and as the race would be more harmless, it is a pity it cannot be adopted. Which of the two could *run* the fastest, would be quite as good evidence of his being in the right, as it is to ascertain, which of them has the strongest arm, or can shoot the best. If the wisdom of our duellists would condescend to introduce the expedient of a *race* to decide their disputes, matters would be totally changed. The longest *legs* would then generally be found to be in the right ; whereas *now* it is the strongest *arm* ; and the *one* is certainly not more absurd than the other.

It has been seriously said, upon this subject, that a challenge is a means of obtaining satisfaction for insulting language, or any other affront to a person, or to his family. Of *all the idle* excuses for duelling, this is cer-

tainly the most unfounded and preposterous. When both parties fire without effect, which is generally the case, is this any satisfaction for ungentlemanly aspersions, or does it prove the charges are *not* true? Nobody will pretend; that it does. But mark, Gentlemen, the folly of the business. This same duel, by some unintelligible operation, white-washes the party; and restores him to credit and reputation, even in the opinion of his antagonist; and to heighten the farce, he is *obliged* to consider him ever afterwards as a gentleman, though in his conscience he knows him to be a bad man, and that the epithets he applied to him, were *always* true. The following anecdote is said to be a fact. A young lady having been debauched, her brother, in order to obtain satisfaction, thought it incumbent on him to call her seducer to account, who fled the country, but was pursued from clime to clime, until he was overtaken, and forced to fight. The result was, the brother of the young lady was wounded, and became a cripple for life. But as he had now received the *satisfaction* of a gentleman, his antagonist of course became *immaculate*; the dis-

grace of his sister, and the dishonor of the family, were wiped off, by a sort of magical sponge ; and the two duellists were frequently seen afterwards, locked arm in arm, like the best friends and brothers !

Nor is duelling a fair and equal proof of courage. Providence by placing men in a great diversity of situations, has clearly shewn, they were not *all* laid under the same obligations, and that different duties were required at their hands. Nobody is so ignorant as to assert, that the obligations of a *husband* and *father* of a family, are the same as those of a *single* man. In the instance therefore of duelling, they stand on very different ground. In rushing into the desperate scene, the ties to be broken through by the *one*, are numerous and tender, and being strongly twisted together, form a powerful cord of duty and attachment, while those of the *other* are comparatively few and feeble. Until two men can be found, in *precisely similar* situations, which I believe to be impossible, duelling will never be a fair experiment of their courage ; because it requires a much greater strength of mind, to disengage the heart,

where it is bound by *many* ties, than where it is bound by few, or none at all, which is often the case.

In the last place, duelling is highly impious.—When we reflect, that man is a dependent being, and that *life* is a post, at which he is placed, in trust for himself, his family and others, it must surely be an act of the highest treason against the Lord of Nature, to desert it. In the language of Judge Blackstone, it is an act of the most daring impiety, “when *men* without warrant or authority from any power, human or divine, but in direct opposition to *both*, wantonly engage to sport with their own lives, and those of their fellow-creatures. It is pretended heroism; but at bottom it is real cowardice. The dastardly fear of the world is undoubtedly the true cause of duelling, which proceeds wholly from forming too *high* an estimate of the value of character, and that the *good opinion* of mankind is to be preserved, at the risque of eternal destruction. Our religion expressly teaches, that we should obey God, rather than man. No circumstance, therefore, dis-

plays the horrid guilt of duelling in so strong a light, as that it is an open and avowed preference of the applause of man, before the approbation of God, and at the solemn moment when the parties are in danger of rushing into his presence, in the very *act* of sinning against him.


Long observation upon this subject hath induced me to believe, that the finger of Heaven is pointed in a very distinct manner, against the *aggressor*, and that when *either* party is killed, it is uniformly the *challenger*. This assertion is not made lightly or rashly, but after mature reflection, due enquiry and conversation. Perhaps it might be indelicate in this place, to state the numerous instances that have occurred in our own country, to justify the remark. For my own part, I solemnly aver, that from the famous and bloody duel, between *Sachville and Bruce*, in the reign of James the first, of England, down to the last between general Spaight and Mr. Stanly of North Carolina, I have never met a single exception. In every case, where *death* ensued, it was constantly the portion of the *challenger*. It is, however, highly probable,

there *may be* exceptions. But a few exceptions, it is well known, do not destroy the correctness of a general remark. Something like the idea now suggested, appears indeed to be clearly foretold, and deduceable from the words of our Saviour, on a memorable occasion. Reprehending the rashness of Peter, "Put up thy sword," said he, "for all they that *take* the sword, shall *perish* by the sword." That is, to use the words of a learned commentator, "they who, without a *just* and *lawful* call, run immediately to the *sword* to revenge themselves, shall *ordinarily* fall by it."*

Take care then, ye challengers—ye hunters after human blood, how you venture into a scene, in which the part *you* act, is, in a most signal and pointed manner, condemned by the *Providence* of God, and the express declarations of Holy Writ.—

The truth is, Gentlemen, duelling has become a fashionable vice in our country, and it is therefore to be feared, inexterminable. But what shall we say, in *this* case, of the

* Dr. Guyes, Matthew xxvi. 52. See also Doctor Hammond, to the same purpose, in *Loco*.



criminal conduct of our senators and members of congress, who, by their example, have given a tone and sanction to one of the most flagrant offences, that can be committed in a state of society. The vices of *such* men, have a tenfold guilt attached to them. Instead of raising the morals of our country, and purifying the fountain, from which people are so apt to draw their ideas, and their habits, they corrupt and mislead those, whom it is their duty to instruct, in the principles of public virtue, and moral order. A regard for the happiness of the people, is an essential part of the duty of a good ruler ; but unfortunately, an attention to this subject is neglected, as a matter of no importance. They who are placed in authority, are too apt to feel no solicitude for the permanent interest of the flock, subjected to their charge. The irresistible force of EXAMPLE is overlooked by our rulers, who seem strangely to apprehend, if their *sentiments* be correct, their *practices* are an object of no consideration. Although in our opinion, Gentlemen, good principles, and good morals should be always combined ; yet if they *must* be separated, it is infinitely bet-

ter for the interests of society, that the *manners* rather than the *principles* of a public magistrate, should be pure and upright.

Two things would powerfully contribute to stop the progress of this alarming evil, perhaps to extirpate it.—In the first place ; there should be an absolute and utter prohibition of all newspaper accounts of duels, which operate like wild-fire on the minds of our young people, whose imaginations, already too much heated with false notions of honour, are blown into a flame by every thing of the sort. The coolness and regularity frequently displayed on such occasions, are *read* with admiration ; and admiration is naturally followed by *imitation*. Nor is it unreasonable to suppose, the combatants themselves, are in some degree influenced, by the prospect of being held up to the world, as men of spirit and enteprize, in an hour of danger. At all events, it is certain, that the publications which are usually made by their *seconds*, of their *attempt to commit murder*, is the most indecorous insult upon government, religion, decency and good order, that ever was tolerated by a virtuous and enlightened country.

In the next place, the axe, as far as possible, should be applied to the root of the evil, by removing the *causes*, which generally lead to such desperate excesses. All offensive and irritating expressions, such as rogue, rascal, liar, villain, scoundrel, and the like, should be made cognizable in the courts of *criminal* jurisdiction ; and persons convicted of using them, or *any* of them, or any *other* provoking *language*, or *gestilre*, should be punished by fine and imprisonment, at the discretion of the court. I believe, I am no fanciful innovator in the science of government ; but it is my decided opinion, a law of this sort, would be attended with the most salutary effects, in checking that petulance and rudeness of expression, which is so frequently the foundation of duelling, and *other* breaches of the peace. Among the instructions of the late Empress of Russia, for drawing up a criminal code, a work which has been universally admired, as the effort of a great and enlightened mind, it is a sound idea, “ that *all* offences, from *treason*, down to the slightest *injury*, or *affront*, to an *individual*, should be punish-

ed."* Nor would a provision of this sort, be so great an innovation, as may at first be imagined. Something of the same kind *exists* in fact, at present, in the laws of our own country. A scolding, brawling woman, is liable to be indicted, fined, and imprisoned. And I see no reason why a scurrilous, foul-mouthed man, should not be equally liable to punishment, without any *repetition* of the offence. It is at least the duty of government, to try the experiment ; and if the law should be found inconvenient or improper, it may be repealed ; and we shall *then* be just in the situation we *now* are. One thing is indubitable—The passing such a law, by removing all pretence for single combat, would completely exonerate our rulers from every degree of censure ; and throw the guilt of murder where it ought to lie, *wholly* on the conscience of the *duellist*.

But after all, Gentlemen, it must be acknowledged, the only radical cure for this inveterate evil, is the Christian religion, *applied* to the *heart*. Here only, shall we find a sovereign antidote for this potent poison, at

* Instr. 128.

genuine balm for all the ills of life. The vital principles of *this* religion, will more effectually banish duelling from our country, than all the laws, that a Solon, or Lycurgus, or mere *human* wisdom, can ever invent; because they strike at the very root of the evil, and correct the *heart*, the source of every wickedness. To all its followers, Christianity prescribes, in the most authoritative manner, “to put away all bitterness and wrath, and anger, and clamour, and evil speaking, with all malice, and to be kind one to another, tender-hearted, *forgiving one another*.”* It may therefore be assumed as an axiom, that the *sincere* believer of the Christian religion, will never fight a duel; though it must be confessed, he is more frequently engaged in combats than any other man. But both his enemies, and the weapons of his warfare, are very different from those of the duellist. Educated in the school, not of “dull philosophy, which Plato taught to cold academicks,” but in the school of HIM of whom it is emphatically said, “He went about doing good,” he is deeply sensible, that a life of active bene-

* Eph. iv. 30, 31.

violence, is an indispensable duty, and that the forgiveness of injuries is enjoined, as the *sole* and awful condition of obtaining the pardon of his *own* offences, at the tribunal of his Maker. It is indeed certain, that if any *one* disposition be more strongly marked, as incompatible with the perfection of the Christian system, it is a fiery and vindictive temper; because its Divine Author every where represents the exercise of a mild and forgiving spirit, as decisive evidence of moral renovation, and the entire subjection of the heart to his laws and government. This exalted precept, however, with its benign influence on the individual, as well as on social happiness, was wholly unknown to the wisest of the heathen moralists. Even Cicero and Aristotle, two of the most distinguished, speak of the forgiveness of injuries, as meanness and pusillanimity. And in general, their philosophers and poets bestow the highest eulogium on those, who discovered the most implacable resentments; and have painted their heroes *great*, in proportion as they were fortunate, in executing their projects of revenge. “ But ho

much more magnanimous, Gentleman, how much more beneficial to mankind, is the forgiveness of injuries ! It is more magnanimous, because every generous and exalted disposition is requisite to the practice of it. It is more beneficial, because this amiable conduct alone can put an end to an eternal succession of injuries ; for every retaliation becomes a *new* injury, and requires *another* act of revenge for satisfaction."* It has been well observed by Sir Robert Steel, that cowards have fought, cowards have conquered—but cowards never *forgave*.† Establish therefore thy heart, O man ! in that which is right, and then know, that the greatest of human praise, is to be *immutable*.

To conclude, Gentlemen, let me call your attention to the oath you have just taken, which expresses your duty in terms at once comprehensive, striking, and solemn. It will require the utmost vigilance of mind, to guard on the one hand against the suggestions " of envy, hatred and malice," and on the other,

* Soame Jenyns, Esq. on the Internal Evidence of the Christian Religion.

† Christian Hero.

against the secret impulse of “fear, favour, and affection.” We should remember, that the perjured juror, as well as the corrupt and unprincipled judge, are equally an abomination in the sight of that GOD, who hateth iniquity, and is no respecter of persons. The precept from Heaven, delivered some thousand years ago, is surely as binding upon all those, who are *now* vested with judicial power, as it *was* upon the great prophet and law-giver of the Jewish nation, to whom it was immediately addressed. Thus saith the Lord unto his servant Moses, and through him to every one of us, who is employed in the administration of justice—“you shall do *no* unrighteousness in judgment—thou shalt not *respect* the person of the poor, nor *honor* the person of the mighty—but in *righteousness* shalt thou judge thy neighbour.”

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END OF THE CHARGES.
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AN ABSTRACT
OF THE
Act of the General Assembly of Pennsylvania,
RESPECTING
VICE AND IMMORALITY.

[PASSED APRIL 22, 1794.]

Sect. 1. **I**F any person shall do and perform any worldly employment or business whatsoever on the Lord's Day, commonly called Sunday, works of necessity and charity only excepted, or shall use or practice any unlawful game, hunting, shooting, sport or diversion whatsoever, on the same day, and be convicted thereof, every such person, so offending, shall, for every such offence, forfeit and pay four dollars, to be levied by distress; or in case he or she shall refuse or neglect to pay the said sum, or goods and chat-

ties cannot be found whereof to levy the same by distress, he or she shall suffer six days imprisonment in the house of correction of the proper county : *Provided*, That nothing herein contained shall be construed to prohibit the dressing of victuals in private families, bake-houses, lodging-houses, inns, and other houses of entertainment, for the use of sojourners, travellers or strangers, or to hinder watermen from landing their passengers, or ferrymen from carrying over the water travellers, or persons removing with their families, on the Lord's Day, commonly called Sunday, nor to the delivery of milk, or the necessaries of life, before nine of the clock in the forenoon, nor after five of the clock in the afternoon, of the same day.

Sect. 2. If any person of the age of sixteen years, or upwards, shall profanely curse or swear by the name of GOD; CHRIST JESUS, or the HOLY GHOST, every person so offending, being thereof convicted, shall forfeit and pay the sum of sixty-seven cents, for every such profane curse or oath ; and in case he or she shall refuse or neglect to pay the said forfeiture, or goods and chattles cannot be found,

whereof to levy the same by distress, he or she shall be committed to the house of correction, of the proper county, not exceeding twenty-four hours, for every such offence of which such persons shall be convicted ; and whosoever, of the age of sixteen years, or upwards, shall curse or swear by any other name or thing than as aforesaid, and shall be convicted thereof, shall forfeit and pay the sum of forty cents for every such curse or oath ; and and in case such offenders shall neglect or refuse to satisfy such forfeiture, or no goods or chattles can be found, whereof to levy the same by distress, he or she shall be committed to the house of correction, of the proper county, not exceeding twelve hours for every such offence.

Sect. 3. If any person shall intoxicate him or herself, by the excessive drinking of spirituous, vinous or other strong liquors, and shall be convicted thereof, he or she shall forfeit and pay the sum of sixty-seven cents for every such offence ; or if such person shall refuse or neglect to satisfy the said forfeiture, or goods and chattles cannot be found, whereof to levy the same by distress, he or she shall be

committed to the house of correction, of the proper county, not exceeding twenty-four hours for every such offence.

Sect. 4. The justices of the supreme court, severally, throughout this state, every president of the courts of common pleas, within his district, every associate judge of the courts of common pleas, and every justice of the peace, within his proper county, the mayor and aldermen of the city of Philadelphia, and each of them, within the limits of the said city, and each burgess of a town corporate, within his borough, are hereby empowered, authorised, and required, to proceed against and punish all persons offending against this act, and every person who shall profane the Lord's Day, or who shall profanely curse or swear, or who shall intoxicate him or herself, as mentioned in the next preceding section of this act; and for that purpose, each of the said justices or magistrates, severally, may, and shall convict such offenders, upon his own view and hearing, or shall issue, if need be, a warrant, summons, or *capias* (according to the circumstances of the case) to bring the *body* of the person accused as aforesaid be-

fore him ; and the same justices and magistrates, respectively, shall, in a summary way, enquire into the truth of the accusation, and, upon the testimony of one or more creditable witnesses, or the confession of the party, shall convict the person who shall be guilty as aforesaid, and thereupon shall proceed to pronounce the forfeiture incurred by the person so convicted, as herein before directed ; and if the person so convicted refuse or neglect to satisfy such forfeiture immediately, with costs, or produce goods, and chattles, whereon to levy the said forfeiture, together with costs, then the said justices or magistrates shall commit the offender, without bail or mainprize, to the house of correction, of the county wherein the offence shall be committed, during such time as is herein before directed, there to be fed upon bread and water only, and to be kept at hard labour ; and if such commitment shall be in any county, wherein no distinct house of correction hath been erected, then the offender shall be committed to the common gaol of the county, to be therein fed, and kept at hard labour, as aforesaid ; and every such conviction may be in the fol-

lowing terms, viz. "Be it remembered, that on the day of in the year of A. B. of county, labourer (or otherwise, as his or her rank, occupation or calling may be) is convicted before me, being one of the justices of the (or one of the aldermen or burgesses of the city or borough of in the county of). of swearing profane oaths, by the name of (or otherwise, as the offence and case may be) and I do adjudge him (or her) to forfeit for the same, the sum of cents. Given under my hand and seal, the day and year aforesaid." *Provided*, That every such prosecution be commenced within seventy-two hours after the offence shall be committed.

Sect. 5. If any person or persons cause to fight any cock or cocks, for money or other valuable thing, or shall promote or encourage any match or matches of cock-fighting, by betting thereon, or shall play at any match of bullets, in any place, for money, or other valuable thing, or on any public highway, with or without a bet, or shall play at cards, dice, billiards, bowls, shuffle-boards, or any game

of hazard or address, for money, or other valuable thing, every such person, so offending, shall, upon conviction thereof before any justice or magistrate, as aforesaid, forfeit and pay three dollars for every such offence ; and if any person or persons shall enter, start, or run any horse, mare, or gelding, for any plate, prize, wager, bet, sum of money, or other valuable thing, every such person, so offending, shall, upon conviction thereof as aforesaid, forfeit and pay the sum of twenty dollars.

Sect. 6. If any tavern-keeper, public house-keeper, keeper of a tippling-house, or other retailer of wine, spirituous, or other strong drink, shall incite, promote, or encourage any games of address, hazard, cock-fighting, bullet-playing, or horse-racing, whereat money or other valuable thing shall be betted, staked, striven for, won or lost, or shall furnish any wine, spirituous liquors, beer, cyder, or other strong drink, to any of the persons who shall be assembled or attending upon any game of address, hazard, or cock-fighting, bullet-playing, or horse-racing, as aforesaid, or shall permit or allow of any kind of game of address or hazard, playing, betting or gam-

ing for money, or other thing of value whatsoever, either at cards, dice, billiards, bowls, shuffle-board, or any game, device, or manner, to be practised, played, or carried on, within his or her dwelling-place, out-house, shed or place, in his or her occupancy, every such tavern-keeper, keeper of a public-house, keeper of a tippling-house, or retailer of wine, or spirituous liquors, beer, cyder, or other strong drink, who shall be legally thereof convicted before any of the justices or magistrates as aforesaid, or in any court of quarter sessions of the peace, or oyer and terminer and general gaol-delivery, held for the city and county wherein the offence shall be committed, shall forfeit and pay, for every such offence, the sum of fourteen dollars ; and if such convict be a licensed public house-keeper, or retailer of wine or spirituous liquors, or beer, the licence of such persons shall be thereupon null and void, and such offender shall be incapable of being again licensed, in like manner, for one year thereafter ; and upon a second conviction of the like offence, such person shall forfeit and pay the sum of twenty-eight dollars, and be for ever incapable of be-

ing a public house-keeper, or retailer, as aforesaid, within this state : *Provided*, That where any such licensed public house-keeper or retailer aforesaid, who shall be convicted as aforesaid, before any one justice or other magistrate, shall think himself or herself aggrieved by such conviction, it shall and may be lawful for such licensed public house-keeper, or retailer, to appeal to the next court of quarter sessions of the peace, to be held for the city or county wherein the offence was committed (and not after) which said court shall thereupon proceed, as soon as may be, to hear and determine the said appeal, and to affirm or reverse the proceedings had before the said justice or other magistrate ; and the determination of the said court shall be final and conclusive.

Sect. 7. No billiard table, E. O table, or other device, for the purpose of gaming for money, or other valuable thing shall be set up, kept or maintained in any dwelling-house, out-house or place, occupied by any tavern-keeper, inn-keeper, public house-keeper, retailer of wine, spirituous liquors, beer or cy-

der, whether such person have a licence or keep a tippling house, on pain of forfeiting every such billiard table, E O table, or other device, and of forfeiting moreover the sum of twenty-six dollars, upon conviction thereof, before any justice or magistrate as aforesaid, or in any court of quarter sessions of the peace, or of oyer and terminer and general gaol-delivery, held for the city or county wherein the offence shall be committed. And the judges of the several courts of quarter sessions, upon application to them for a licence to keep a tavern or other public house, shall, if they see cause, enquire, by the oath or affirmation of witnesses, or otherwise, whether such applicant do keep any such billiard table, E O table, or other device for gaming, within his or her dwelling-house, out-house or other place, within such person's occupancy, and if it does not appear plainly to the judges aforesaid, that such person, so applying, hath no such device for gaming in his or her possession, as aforesaid, the said judges shall not recommend such person to the governor for a licence ; and no licence issued to any person, who shall so possess as aforesaid,

any such billiard table, E O table, or other device for gaming, shall be of any force or avail, but the same shall be void, to all intents and purposes: *Provided*, That the person or persons offending against the provision of this section shall be entitled to the like appeal, as is provided in and by the sixth section of this act.

Sect. 8. If any person or persons shall lose any money, or other valuable thing, at or upon any match of cock-fighting, bullet-playing, or horse-racing, or at or upon any game of address, game of hazard, play or game whatsoever, the person or persons, who shall lose their money, or other valuable thing, shall not be compelled to pay or make good the same; and every contract, note, bill, bond, judgment, mortgage, or other security or conveyance whatsoever, given, granted, drawn or entered into, for the security or satisfaction of the same, or any part thereof, shall be utterly void and of none effect.

Sect. 9. If any person or persons shall lose any money, or other thing of value, at or upon any game of address, or of hazard, or other play, and shall pay or deliver the same, or any part thereof, the person or persons so losing,

and paying or delivering the same, shall have a right within ten days then next or thereafter, to sue for and recover the money or goods so lost, and paid or delivered, or any part thereof, from the respective winner or winners thereof, with costs of suit, by action of debt or case, for the value of the money or thing so lost, founded on this act, to be prosecuted in any court of record, or where the value is under a sum that may be recovered before any justice of the peace within this commonwealth, subject to an appeal, as in other cases, in which action no essoine, protection or wager of law, nor more than one imparlance, shall be admitted, and in which actions it shall be sufficient for the plaintiff or plaintiffs to alledge, that the defendant or defendants, is or are indebted to him, her, or them, or hath or have received, to his, her, or their use, the money so lost and paid, or converted the goods won of him, her, or them, to the use of the defendant or defendants, whereby the action of the plaintiff or plaintiffs accrued to him, her, or them, according to the form of this act, without setting forth the special matter.

Sect. 10. If any person within this commonwealth, shall challenge, by word or writing, the person of another to fight, at sword, rapier, pistol, or other deadly weapon, such person, so challenging, shall forfeit and pay, for every such offence, being thereof lawfully convicted in any court of record within this commonwealth, by the testimony of one or more witnesses, or by the confession of the party offending, the sum of one hundred and eighty dollars, or shall suffer twelve months imprisonment, without bail or mainprize; and the person who shall accept any such challenge, shall, in like manner, upon conviction, forfeit and pay the sum of two hundred and forty dollars, or suffer such imprisonment, for and during six months; and if any person shall willingly and knowingly carry and deliver any written challenge, or shall verbally deliver any message, purporting to be a challenge, or shall consent to be a second in any such intended duel, or shall be thereof legally convicted as aforesaid, he or they, so offending, shall, for every such offence, forfeit and pay the sum of one hundred and forty dollars, or suffer six months imprisonment, as

aforesaid ; and, moreover, the person challenging, and the person accepting the challenge, the person delivering the same, and the person consenting to become a second to either of the parties, shall, for every such offence, forfeit and be deprived of all the rights of citizenship within this commonwealth, for the space of seven years after conviction.

Sect. 11. The judge of the quarter sessions for the county of Philadelphia, and several counties within this commonwealth, respectively, shall, at their first session, in the year one thousand seven hundred and ninety-five, and at the first session of every year thereafter, limit and declare the number of taverns and public houses, as aforesaid, which only may be licensed for the year following such session, within the said city and counties respectively ; the said judges, in the distribution of their recommendations to the governor for licenses to keep such taverns and public houses, having regard to the particular neighbourhoods and situations, the most suitable to the accommodation of the inhabitants and travellers ; and the said judges are hereby authorised to issue their recommendations as

aforesaid, as far as the number so limited and declared.'

Sect. 12. One moiety of the forfeitures in money, accruing and becoming due for any offence against this act, shall be paid to the overseers of the poor of the city, borough, or township, wherein the offence shall be committed, for the use of the poor thereof, and the other moiety to the person or persons who shall prosecute and sue for the same ; and the inhabitants of such city, or other place, shall, notwithstanding, be admitted witnesses, to testify against any person who shall be prosecuted for any offence by virtue of this act: *Provided*, That no person shall be prosecuted or convicted for any offence against this act, unless such prosecution be commenced within thirty days after the offence has been committed.

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THE END.
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